**Section 4440.250 Service Purchases under IRC Section 415(n)**

a) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the plan, then the requirements of IRC section 415(n) will be treated as met only if:

1) the requirements of IRC section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of IRC section 415(b); or

2) the requirements of IRC section 415(b) are met, determined by treating all such contributions as annual additions for purposes of IRC section 415(c).

b) For purposes of applying this Section, a pension fund will not fail to meet the reduced limit under IRC section 415(b)(2)(C) solely by reason of this Section and will not fail to meet the percentage limitation under IRC section 415(c)(1)(B) solely by reason of this Section.

c) Permissive Service Credit

1) For purposes of this Section, the term "permissive service credit" means service credit:

A) recognized by the plan for purposes of calculating a member's benefit under the plan;

B) that the member has not received under the plan; and

C) that the member may receive only by making a voluntary additional contribution, in an amount determined under the plan, that does not exceed the amount necessary to fund the benefit attributable to the service credit.

2) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term may include service credit for periods for which there is no performance of service and, notwithstanding subsection (c)(1)(B), may include service credited in order to provide an increased benefit for service credit a member is receiving under the plan.

d) A pension fund will fail to meet the requirements of this Section if:

1) more than 5 years of nonqualified service credit are taken into account for purposes of this Section; or

2) any nonqualified service credit is taken into account under this Section before the member has at least five years of participation under the plan.

e) For purposes of subsection (d), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to:

1) service (including parental, medical, sabbatical and similar leave) as an employee of the Government of the United States, any state or political subdivision of the United States, or any agency or instrumentality of any of the foregoing (other than military service or service for credit that was obtained as a result of a repayment described in IRC section 415(k)(3));

2) service (including parental, medical, sabbatical and similar leave) as an employee (other than as an employee described in subsection (e)(1)) of an education organization described in IRC section 170(b)(1)(A)(ii) that is a public, private or sectarian school that provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed;

3) service as an employee of an association of employees who are described in subsection (e)(1); or

4) military service (other than qualified military service under IRC section 414(u)) recognized by the plan.

f) In the case of service described in subsections (e)(1) through (3), the service will be nonqualified service if recognition of the service would cause a member to receive a retirement benefit for the same service under more than one plan.

g) In the case of a trustee-to-trustee transfer after December 31, 2001 to which IRC section 403(b)(13)(A) or 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer):

1) the limitations of subsection (d) will not apply in determining whether the transfer is for the purchase of permissive service credit; and

2) the distribution rules applicable under federal law to the plan will apply to the transferred amounts and any benefits attributable to those amounts.

h) For an eligible participant, the limitation of IRC section 415(c)(1) shall not be applied to reduce the amount of permissive service credit that may be purchased to an amount less than the amount allowed to be purchased under the terms of the plan as in effect on August 5, 1997. For purposes of this subsection (h), an eligible participant is an individual who first became a participant in the plan before January 1, 1998.