

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 2143

By: Corn of the Senate

3 and

4 Hickman of the House

5

6

7 (retirement - Oklahoma Law Enforcement Retirement

8 System - effective date -

9 emergency)

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11

12 AUTHOR: Add the following House Coauthor: Jett

13 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
14 entire bill and insert

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"An Act relating to public retirement systems;
amending 11 O.S. 2001, Sections 49-106.1, as last
amended by Section 2, Chapter 356, O.S.L. 2007, 49-
106.2, as amended by Section 4, Chapter 128, O.S.L.
2003 and 49-106.3, as last amended by Section 2,
Chapter 345, O.S.L. 2007 (11 O.S. Supp. 2007,
Sections 49-106.1, 49-106.2 and 49-106.3), which
relate to the Oklahoma Firefighters Pension and
Retirement System; authorizing certain election by
surviving spouse; modifying provisions related to
certain limitation years for purposes of Internal
Revenue Code of 1986, as amended; providing for
certain adjustments; providing for benefit
determinations; prescribing procedures related to
certain actuarial adjustments; specifying procedures
applicable to certain years; modifying definitions;
amending 11 O.S. 2001, Sections 50-111.3, as last
amended by Section 4, Chapter 551, O.S.L. 2004, 50-
114.1, as last amended by Section 5, Chapter 551,

1 O.S.L. 2004 and 50-114.2, as last amended by Section
2 3, Chapter 152, O.S.L. 2007 (11 O.S. Supp. 2007,
3 Sections 50-111.3, 50-114.1 and 50-114.2), which
4 relate to the Oklahoma Police Pension and Retirement
5 System; modifying provisions related to election for
6 purposes of Oklahoma Police Deferred Option Plan;
7 modifying provisions related to certain limitation
8 years for purposes of Internal Revenue Code of 1986,
9 as amended; providing for certain adjustments;
10 providing for benefit determinations; prescribing
11 procedures related to certain actuarial adjustments;
12 specifying procedures applicable to certain years;
13 modifying definitions; amending 47 O.S. 2001,
14 Sections 2-300, as last amended by Section 10,
15 Chapter 62, O.S.L. 2007, 2-303.3, 2-305.1A,, as last
16 amended by Section 8, Chapter 152, O.S.L. 2007, 2-
17 305.4, as last amended by Section 21, Chapter 46,
18 2nd Extraordinary Session, O.S.L. 2006, 2-307, as
19 last amended by Section 22, Chapter 46, 2nd
20 Extraordinary Session, O.S.L. 2006, Section 2-307.2,
21 as amended by Section 24, Chapter 46, 2nd
22 Extraordinary Session, O.S.L. 2006 and 2-309.8 (47
23 O.S. Supp. 2007, Sections 2-300, 2-305.1A, 2-305.4,
24 2-307 and 2-307.2), which relate to the Oklahoma Law
Enforcement Retirement System; modifying
definitions; modifying provisions related to
alternate payees pursuant to certain qualified
orders; modifying provisions related to certain
limitation years for purposes of Internal Revenue
Code of 1986, as amended; providing for certain
adjustments; providing for benefit determinations;
prescribing procedures related to certain actuarial
adjustments; specifying procedures applicable to
certain years; modifying provisions related to
certain employer contributions; imposing limitation
on duration of contributions; modifying provisions
related to computation of sick leave for certain
purposes; providing an effective date; and declaring
an emergency.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. AMENDATORY 11 O.S. 2001, Section 49-106.1, as
2 last amended by Section 2, Chapter 356, O.S.L. 2007 (11 O.S. Supp.
3 2007, Section 49-106.1), is amended to read as follows:

4 Section 49-106.1 A. In lieu of terminating employment and
5 accepting a service retirement pension pursuant to Sections 49-101
6 and 49-106 of this title, any member of the Oklahoma Firefighters
7 Pension and Retirement System who has not less than twenty (20)
8 years of creditable service and who is eligible to receive a service
9 retirement pension may elect to participate in the Oklahoma
10 Firefighters Deferred Option Plan and defer the receipts of benefits
11 in accordance with the provisions of this section.

12 B. For purposes of this section, creditable service shall
13 include service credit reciprocally recognized pursuant to Sections
14 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2
15 of this title but for eligibility purposes only.

16 C. The duration of participation in the Oklahoma Firefighters
17 Deferred Option Plan for active firefighters shall not exceed five
18 (5) years. Participation in the Oklahoma Firefighters Deferred
19 Option Plan must begin the first day of a month and end on the last
20 day of a month. At the conclusion of a member's participation in
21 the Oklahoma Firefighters Deferred Option Plan, the member shall
22 terminate employment with all participating municipalities as a
23 firefighter, and shall start receiving the member's accrued monthly
24 retirement benefit from the System. Such a member may be reemployed

1 by a participating municipality but only in a position not covered
2 under the System, and receive in-service distributions of such
3 member's accrued monthly retirement benefit from the System.

4 D. When a member begins participation in the Oklahoma
5 Firefighters Deferred Option Plan, the contribution of the member
6 shall cease. The employer contributions shall continue to be paid
7 in accordance with subsection B of Section 49-122 of this title.
8 Employer contributions for members who elect the Oklahoma
9 Firefighters Deferred Option Plan shall be credited equally to the
10 Oklahoma Firefighters Pension and Retirement System and to the
11 member's Oklahoma Firefighters Deferred Option Plan account. The
12 monthly retirement benefits that would have been payable had the
13 member elected to cease employment and receive a service retirement
14 shall be paid into the member's Oklahoma Firefighters Deferred
15 Option Plan account.

16 E. 1. A member who participates in this plan shall be eligible
17 to receive cost of living increases.

18 2. A member who participates in this plan shall earn interest
19 at a rate of two percentage points below the rate of return of the
20 investment portfolio of the System, but no less than the actuarial
21 assumed interest rate as certified by the actuary in the yearly
22 evaluation report of the actuary. The interest shall be credited to
23 the individual account balance of the member on an annual basis.

1 F. A member in the plan shall receive, at the option of the
2 member, a lump sum payment from the account equal to the payments to
3 the account or an annuity based upon the account of the member or
4 may elect any other method of payment if approved by the Board of
5 Trustees. If a member becomes so physically or mentally disabled
6 while in, or in consequence of, the performance of his or her duty
7 as to prevent the effective performance of his or her duties that
8 the State Board approves an in line of duty disability pension, the
9 payment from the account shall be an in line of duty disability
10 payment.

11 G. If a member dies while maintaining an account balance in the
12 plan the System shall pay to the designated recipient or recipients
13 of the member, or if there is no designated recipient or if the
14 designated recipient predeceases the member, to the spouse of the
15 member, or if there is no spouse or if the spouse predeceases the
16 member, to the estate of the member a lump sum payment equal to the
17 account balance of the member. If such member was receiving, or
18 eligible to receive, an inline of duty disability pension at the
19 time of his or her death, payment of the account balance shall be an
20 in line of duty disability payment. If a designated recipient is
21 the surviving spouse of the member, the surviving spouse shall
22 receive his or her portion of the account balance of the member
23 pursuant to subsection F of this section. The surviving spouse,
24 whether or not he or she is a designated recipient of the member,

1 may elect to receive his or her portion of the account balance of
2 the member in the same manner as was applicable to the member.

3 H. In lieu of participating in the Oklahoma Firefighters
4 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
5 this section, a member may elect to participate in the Oklahoma
6 Firefighters Deferred Option Plan pursuant to this subsection as
7 follows:

8 1. For purposes of this subsection and subsection I of this
9 section, the following definitions shall apply:

- 10 a. "back drop date" means the member's normal retirement
11 date or the date five (5) years before the member
12 elects to participate in the Oklahoma Firefighters
13 Deferred Option Plan, whichever date is later,
- 14 b. "termination date" means the date the member elects to
15 participate in the Oklahoma Firefighters Deferred
16 Option Plan pursuant to this subsection, and the date
17 the member terminates employment with all
18 participating municipalities as an active firefighter,
- 19 c. "earlier attained credited service" means the credited
20 service earned by a member as of the back drop date,
21 and
- 22 d. "deferred benefit balance" means all monthly
23 retirement benefits that would have been payable had
24 the member elected to cease employment on the back

1 drop date and receive a service retirement from the
2 back drop date to the termination date, all the
3 member's contributions and one-half (1/2) of the
4 employer contributions from the back drop date to the
5 termination date, with interest based on how the
6 benefit would have accumulated on a compound annual
7 basis as if the member had participated in the
8 Oklahoma Firefighters Deferred Option Plan pursuant to
9 subsections A, B, C, D, E and F of this section from
10 the back drop date to the termination date; and

11 2. At the termination date, the monthly pension benefit shall
12 be determined based on earlier attained credited service and on the
13 final average salary as of the back drop date. The member's
14 individual deferred option account shall be credited with an amount
15 equal to the deferred benefit balance, the member shall terminate
16 employment with all participating municipalities as a firefighter,
17 and shall start receiving the member's accrued monthly retirement
18 benefit from the System. Such a member may be reemployed by a
19 participating municipality but only in a position not covered under
20 the System, and receive in-service distributions of such member's
21 accrued monthly retirement benefit from the System. The provisions
22 of subsections B, C, E, F and G of this section shall apply to this
23 subsection. A member shall not participate in the Oklahoma
24 Firefighters Deferred Option Plan pursuant to this subsection if the

1 member has elected to participate in the Oklahoma Firefighters
2 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
3 this section.

4 I. Certain surviving spouses and members shall be eligible to
5 participate in the Oklahoma Firefighters Deferred Option Plan
6 pursuant to subsection H of this section and this subsection.

7 1. For purposes of this subsection, the following definitions
8 shall apply:

9 a. "back drop election date" means the date the surviving
10 spouse or member elects to commence participation in
11 the Oklahoma Firefighters Deferred Option Plan
12 pursuant to subsection H of this section and this
13 subsection,

14 b. "interest" means the actuarial assumed interest rate
15 as certified by the actuary in the yearly evaluation
16 report of the actuary,

17 c. "monthly adjustment amount" means the difference
18 between the monthly pension prior to the back drop
19 election and the adjusted monthly pension due to the
20 back drop election,

21 d. "back drop pension adjustment amount" means the sum of
22 all the monthly adjustment amounts adjusted for
23 interest from the pension commencement date to the
24 back drop election date, and

1 e. "deferred benefit balance adjustment amount" means the
2 interest on the deferred benefit balance from the
3 pension commencement date to the back drop election
4 date.

5 2. If a member who has more than twenty (20) years of
6 creditable service and is eligible to receive a service retirement
7 pension dies on or after the effective date of this act, and prior
8 to terminating employment, the member's surviving spouse shall be
9 eligible to elect to receive a benefit determined as if the member
10 had elected to participate in the Oklahoma Firefighters Deferred
11 Option Plan in accordance with subsection H of this section on the
12 day immediately preceding such member's death. The surviving spouse
13 must make any such election within one (1) year from the date of the
14 member's death. If such election is made, the monthly pension such
15 surviving spouse is receiving, or is entitled to receive, shall be
16 adjusted in accordance with the provisions of subsection H of this
17 section to account for the member's participation in the Oklahoma
18 Firefighters Deferred Option Plan. The deferred benefit balance
19 such surviving spouse is entitled to receive shall be reduced by the
20 back drop pension adjustment amount and increased by the deferred
21 benefit balance adjustment amount. The surviving spouse may only
22 make a back drop election if the deferred benefit balance after the
23 adjustment described in this paragraph is greater than Zero Dollars
24 (\$0.00). The surviving spouse may only make this election if the

1 member has not previously elected to participate in the Oklahoma
2 Firefighters Deferred Option Plan. For purposes of this election,
3 the surviving spouse must have been married to the firefighter for
4 the thirty (30) continuous months preceding the firefighter's death;
5 provided, the surviving spouse of a member who died while in, or as
6 a consequence of, the performance of the member's duty for a
7 participating municipality shall not be subject to the marriage
8 limitation for this election.

9 3. If a member has more than twenty (20) years of creditable
10 service and is eligible for a retirement for disability monthly
11 pension pursuant to Section 49-109 of this title on or after the
12 effective date of this act, such member shall be eligible to elect
13 to receive a benefit determined as if the member had elected to
14 participate in the Oklahoma Firefighters Deferred Option Plan, in
15 accordance with subsection H of this section, on the day immediately
16 preceding the date of the member's disability retirement, provided
17 such election is made within two (2) years from the date of the
18 member's disability retirement. The disability monthly pension such
19 member is receiving, or entitled to receive, shall be adjusted in
20 accordance with the provisions of subsection H of this section to
21 account for the member's participation in the Oklahoma Firefighters
22 Deferred Option Plan. The deferred benefit balance such member is
23 entitled to receive shall be reduced by the back drop pension
24 adjustment amount and increased by the deferred benefit balance

1 adjustment amount. The member may only make a back drop election if
2 the deferred benefit balance after the adjustment described in this
3 paragraph is greater than Zero Dollars (\$0.00). The member may only
4 make this election if the member has not previously elected to
5 participate in the Oklahoma Firefighters Deferred Option Plan.

6 4. If a member has more than twenty (20) years of creditable
7 service and filed a grievance for wrongful termination occurring on
8 or after the effective date of this act, but is not reinstated as an
9 active member, such member shall be eligible to elect to receive a
10 benefit determined as if the member had elected to participate in
11 the Oklahoma Firefighters Deferred Option Plan in accordance with
12 subsection H of this section on the day immediately preceding the
13 date of the member's termination. Such election must be made within
14 two (2) years from the date of the member's termination as an active
15 member and, if the member's case pertaining to the member's
16 termination is on appeal to a court of competent jurisdiction,
17 within such period set by the State Board in its sole discretion.
18 The monthly pension such member is receiving, or entitled to
19 receive, shall be adjusted in accordance with the provisions of
20 subsection H of this section to account for the member's
21 participation in the Oklahoma Firefighters Deferred Option Plan.
22 The deferred benefit balance such member is entitled to receive
23 shall be reduced by the back drop pension adjustment amount and
24 increased by the deferred benefit balance adjustment amount. The

1 member may only make a back drop election if the deferred benefit
2 balance after the adjustment described in this paragraph is greater
3 than Zero Dollars (\$0.00). The member may only make this election
4 if the member has not previously elected to participate in the
5 Oklahoma Firefighters Deferred Option Plan.

6 SECTION 2. AMENDATORY 11 O.S. 2001, Section 49-106.2, as
7 amended by Section 4, Chapter 128, O.S.L. 2003 (11 O.S. Supp. 2007,
8 Section 49-106.2), is amended to read as follows:

9 Section 49-106.2 A. Notwithstanding any other provision
10 contained herein to the contrary, the benefits payable to a member
11 ~~in~~ from the System provided by employer contributions (including
12 contributions picked up by the employer under Section 414(h) of the
13 Internal Revenue Code of 1986, as amended) shall be subject to the
14 limitations of Section 415 of the Internal Revenue Code of 1986, as
15 amended, in accordance with the provisions of ~~subsections B and C of~~
16 this section. The limitations of this section shall apply in
17 limitation years beginning on or after July 1, 2007, except as
18 otherwise provided below.

19 B. Except as provided ~~in paragraphs 3 through 7 of this~~
20 ~~subsection~~ below, effective for limitation years ending after
21 December 31, 2001, any accrued retirement benefit payable to a
22 member as an annual benefit as described below shall not exceed the
23 ~~lesser of:~~

24

1 ~~1.~~ One Hundred Sixty Thousand Dollars (\$160,000.00),
2 automatically adjusted under Section 415(d) of the Internal Revenue
3 Code of 1986, as amended, for increases in the cost of living, as
4 prescribed by the Secretary of the Treasury or his delegate,
5 effective January 1 of each calendar year and applicable to the
6 limitation year ending with or within such calendar year; ~~or~~

7 ~~2. For limitation years beginning prior to January 1, 1995, one~~
8 ~~hundred percent (100%) of the average earnings of the member for the~~
9 ~~three (3) consecutive calendar years, while a member in the System,~~
10 ~~in which the member's earnings were the highest. For purposes of~~
11 ~~this paragraph, earnings for.~~ The automatic annual adjustment of
12 the dollar limitation in this subsection under Section 415(d) of the
13 Internal Revenue Code of 1986, as amended, shall apply to a member
14 who has had a separation from employment.

15 1. The member's annual benefit is a benefit that is payable
16 annually in the form of a straight life annuity. Except as provided
17 below, where a benefit is payable in a form other than a straight
18 life annuity, the benefit shall be adjusted to an actuarially
19 equivalent straight life annuity that begins at the same time as
20 such other form of benefit and is payable on the first day of each
21 month, before applying the limitations of this section. For a
22 member who has or will have distributions commencing at more than
23 one annuity starting date, the annual benefit shall be determined as
24 of each such annuity starting date (and shall satisfy the

1 limitations of this section as of each such date), actuarially
2 adjusting for past and future distributions of benefits commencing
3 at the other annuity starting dates. For this purpose, the
4 determination of whether a new starting date has occurred shall be
5 made without regard to Section 1.401(a)-20, Q&A 10(d), and with
6 regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax
7 Regulations.

8 2. No actuarial adjustment to the benefit shall be made for:

9 a. survivor benefits payable to a surviving spouse under
10 a qualified joint and survivor annuity to the extent
11 such benefits would not be payable if the member's
12 benefit were paid in another form,

13 b. benefits that are not directly related to retirement
14 benefits such as a qualified disability benefit,
15 preretirement incidental death benefits, and
16 postretirement medical benefits, or

17 c. the inclusion in the form of a benefit of an automatic
18 benefit increase feature, provided, the form of
19 benefit is not subject to Section 417(e)(3) of the
20 Internal Revenue Code of 1986, as amended, and would
21 otherwise satisfy the limitations of this section, and
22 the System provides that the amount payable under the
23 form of benefit in any limitation year shall be the
24 earned income of the member, wages, salaries, and fees

1 ~~for professional services, and other amounts received~~
2 ~~for personal services actually rendered in the course~~
3 ~~of employment with a participating municipality,~~
4 ~~provided such amounts are actually paid or includable~~
5 ~~in gross income during such year. Earnings shall~~
6 ~~exclude the following:~~

- 7 a. ~~contributions by a participating municipality to a~~
8 ~~plan of deferred compensation which are not included~~
9 ~~in the gross income of the member for the taxable year~~
10 ~~in which contributed or any distributions from a~~
11 ~~funded plan of deferred compensation, and~~
- 12 b. ~~other amounts which received special tax benefits, or~~
13 ~~contributions made by a participating municipality,~~
14 ~~whether or not under a salary reduction agreement,~~
15 ~~towards the purchase of an annuity described in~~
16 ~~Section 403(b) of the Internal Revenue Code of 1986,~~
17 ~~whether or not the amounts are actually excludable~~
18 ~~from the gross income of the member,~~

19 ~~3. Except as provided in paragraph 5 of this subsection, the~~
20 ~~limitations specified in paragraphs 1 and 2 of this subsection shall~~
21 ~~not be applicable with respect to any member whose total annual~~
22 ~~accrued retirement benefit payable from the System is less than Ten~~
23 ~~Thousand Dollars (\$10,000.00) and who has not at any time~~
24 ~~participated in any contribution plan, within the meaning of Section~~

1 ~~415(k) of the Internal Revenue Code of 1986, maintained by a~~
2 ~~participating municipality, not exceed the limits of this section~~
3 ~~applicable at the annuity starting date, as increased in subsequent~~
4 ~~years pursuant to Section 415(d) of the Internal Revenue Code of~~
5 ~~1986, as amended. For this purpose, an automatic benefit increase~~
6 ~~feature is included in a form of benefit if the form of benefit~~
7 ~~provides for automatic, periodic increases to the benefits paid in~~
8 ~~that form.~~

9 3. The determination of the annual benefit shall take into
10 account Social Security supplements described in Section 411(a)(9)
11 of the Internal Revenue Code of 1986, as amended, and benefits
12 transferred from another defined benefit plan, other than transfers
13 of distributable benefits pursuant to Section 1.411(d)-4, Q&A-3(c),
14 of the Income Tax Regulations, but shall disregard benefits
15 attributable to employee contributions or rollover contributions.

16 4. Effective for distributions in plan years beginning after
17 December 31, 2003, the determination of actuarial equivalence of
18 forms of benefit other than a straight life annuity shall be made in
19 accordance with paragraph 5 or paragraph 6 of this subsection.

20 5. Benefit Forms Not Subject to Section 417(e)(3) of the
21 Internal Revenue Code of 1986, as amended: The straight life
22 annuity that is actuarially equivalent to the member's form of
23 benefit shall be determined under this paragraph if the form of the
24 member's benefit is either:

1 a. a nondecreasing annuity (other than a straight life
2 annuity) payable for a period of not less than the
3 life of the member (or, in the case of a qualified
4 preretirement survivor annuity, the life of the
5 surviving spouse), or

6 b. an annuity that decreases during the life of the
7 member merely because of:

8 (1) the death of the survivor annuitant, but only if
9 the reduction is not below fifty percent (50%) of
10 the benefit payable before the death of the
11 survivor annuitant, or

12 (2) the cessation or reduction of Social Security
13 supplements or qualified disability payments as
14 defined in Section 401(a)(11) of the Internal
15 Revenue Code of 1986, as amended.

16 c. Limitation Year Beginning Before July 1, 2007. For
17 limitation years beginning before July 1, 2007, the
18 actuarially equivalent straight life annuity is equal
19 to the annual amount of the straight life annuity
20 commencing at the same annuity starting date that has
21 the same actuarial present value as the member's form
22 of benefit computed using whichever of the following
23 produces the greater annual amount:

24

1 (1) the interest rate and the mortality table or
2 other tabular factor, each as set forth in
3 subsection H of Section 49-100.9 of this title
4 for adjusting benefits in the same form, and

5 (2) a five percent (5%) interest rate assumption and
6 the applicable mortality table described in
7 Revenue Ruling 2001-62 for that annuity starting
8 date, or

9 d. Limitation Years Beginning On or After July 1, 2007.

10 For limitation years beginning on or after July 1,
11 2007, the actuarially equivalent straight life annuity
12 is equal to the greater of:

13 (1) the annual amount of the straight life annuity,
14 if any, payable to the member under the System
15 commencing at the same annuity starting date as
16 the member's form of benefit, and

17 (2) the annual amount of the straight life annuity
18 commencing at the same annuity starting date that
19 has the same actuarial present value as the
20 member's form of benefit, computed using a five
21 percent (5%) interest rate assumption and the
22 applicable mortality table described in Revenue
23 Ruling 2001-62 for that annuity starting date.

1 6. Benefit Forms Subject to Section 417 (e) (3) of the Internal
2 Revenue Code of 1986, as amended: The straight life annuity that is
3 actuarially equivalent to the member's form of benefit shall be
4 determined under this paragraph 6 if the form of the member's
5 benefit is other than a benefit form described in paragraph 5 of
6 this subsection. In this case, the actuarially equivalent straight
7 life annuity shall be determined as follows:

8 a. Annuity Starting Date in Plan Years Beginning After
9 2005. If the annuity starting date of the member's
10 form of benefit is in a plan year beginning after
11 2005, the actuarially equivalent straight life annuity
12 is equal to the greatest of:

13 (1) the annual amount of the straight life annuity
14 commencing at the same annuity starting date that
15 has the same actuarial present value as the
16 member's form of benefit, computed using the
17 interest rate and the mortality table or other
18 tabular factor each as set forth in subsection H
19 of Section 49-100.9 of this title for adjusting
20 benefits in the same form,

21 (2) the annual amount of the straight life annuity
22 commencing at the same annuity starting date that
23 has the same actuarial present value as the
24 member's form of benefit, computed using a five

1 and one-half percent (5.5%) interest rate
2 assumption and the applicable mortality table
3 described in Revenue Ruling 2001-62, and
4 (3) the annual amount of the straight life annuity
5 commencing at the same annuity starting date that
6 has the same actuarial present value as the
7 member's form of benefit, computed using:

8 (a) the rate of interest on thirty-year Treasury
9 securities as specified by the Commissioner
10 for the lookback month for the stability
11 period specified below. The lookback month
12 applicable to the stability period is the
13 fourth calendar month preceding the first
14 day of the stability period, as specified
15 below. The stability period is the
16 successive period of one plan year which
17 contains the annuity starting date for the
18 distribution and for which the applicable
19 interest rate remains constant, and

20 (b) the applicable mortality table described in
21 Revenue Ruling 2001-62,
22 divided by one and five one-hundredths (1.05).

23 b. Annuity Starting Date in Plan Years Beginning in 2004
24 or 2005.

1 (1) If the annuity starting date of the member's form
2 of benefit is in a plan year beginning in 2004 or
3 2005, the actuarially equivalent straight life
4 annuity is equal to the annual amount of the
5 straight life annuity commencing at the same
6 annuity starting date that has the same actuarial
7 present value as the member's form of benefit,
8 computed using whichever of the following
9 produces the greater annual amount:

10 (a) the interest rate and the mortality table or
11 other tabular factor, each as set forth in
12 subsection H of Section 49-100.9 of this
13 title for adjusting benefits in the same
14 form, and

15 (b) a five and one-half percent (5.5%) interest
16 rate assumption and the applicable mortality
17 table described in Revenue Ruling 2001-62.

18 (2) If the annuity starting date of the member's
19 benefit is on or after the first day of the first
20 plan year beginning in 2004 and before December
21 31, 2004, the application of this subparagraph b
22 shall not cause the amount payable under the
23 member's form of benefit to be less than the
24 benefit calculated under the System, taking into

1 account the limitations of this section, except
2 that the actuarially equivalent straight life
3 annuity is equal to the annual amount of the
4 straight life annuity commencing at the same
5 annuity starting date that has the same actuarial
6 present value as the member's form of benefit,
7 computed using whichever of the following
8 produces the greatest annual amount:

9 (a) the interest rate and mortality table or
10 other tabular factor, each as set forth in
11 subsection H of Section 49-100.9 of this
12 title for adjusting benefits in the same
13 form,

14 (b) i. the rate of interest on thirty-year
15 Treasury securities as specified by the
16 Commissioner for the lookback month for
17 the stability period specified below.
18 The lookback month applicable to the
19 stability period is the fourth calendar
20 month preceding the first day of the
21 stability period, as specified below.
22 The stability period is the successive
23 period of one plan year which contains
24 the annuity starting date for the

1 distribution and for which the
2 applicable interest rate remains
3 constant, and

4 ii. the applicable mortality table
5 described in Revenue Ruling 2001-62,
6 and

7 (c) i. the rate of interest on thirty-year
8 Treasury securities as specified by the
9 Commissioner for the lookback month for
10 the stability period specified below.

11 The lookback month applicable to the
12 stability period is the fourth calendar
13 month preceding the first day of the
14 stability period, as specified below.

15 The stability period is the successive
16 period of one plan year which contains

17 the annuity starting date for the

18 distribution and for which the

19 applicable interest rate remains

20 constant (as in effect on the last day

21 of the last plan year beginning before

22 January 1, 2004, under provisions of

23 the System then adopted and in effect),

24 and

1 ii. the applicable mortality table
2 described in Revenue Ruling 2001-62.

3 C. If a member has less than ten (10) years of participation in
4 the System and all predecessor municipal firefighter pension and
5 retirement systems, the dollar limitation otherwise applicable under
6 ~~paragraph 1 of this subsection~~ B of this section shall be ~~reduced by~~
7 ~~multiplying such limitation~~ multiplied by a fraction, the numerator
8 of which is the number of the years of participation in the System
9 of the member, but never less than one (1), and the denominator of
10 which is ten (10). ~~This paragraph, to the extent required by the~~
11 ~~Secretary of the Treasury, shall be applied separately to each~~
12 ~~change in benefit structure hereunder;~~

13 ~~5. Effective for limitation years beginning on or after January~~
14 ~~1, 1995, if a member has been credited with less than ten (10) years~~
15 ~~of credited service, the dollar amount otherwise applicable under~~
16 ~~paragraph 3 of this subsection shall be reduced by multiplying such~~
17 ~~dollar amount by a fraction, the numerator of which is the number of~~
18 ~~the years of credited service of the member, but never less than one~~
19 ~~(1), and the denominator of which is ten (10);~~

20 ~~6. The limitations specified in this section shall apply to a~~
21 ~~straight life annuity with no ancillary benefits and to an annuity~~
22 ~~that constitutes a qualified joint and survivor annuity. If payment~~
23 ~~is in a different form, the amount thereof shall be adjusted to be~~
24 ~~the actuarial equivalent of a single life annuity and the~~

1 ~~limitations shall be applied to such adjusted amount. Such~~
2 ~~adjustment shall be based on the mortality tables and interest rates~~
3 ~~described in divisions (1), (2) and (3) of subparagraph a of this~~
4 ~~paragraph.~~

5 a. ~~If payment begins before the member reaches sixty-two~~
6 ~~(62) years of age, the limitation in paragraph 1 of~~
7 ~~this subsection shall be reduced on an actuarially~~
8 ~~equivalent basis.~~

9 ~~(1) For limitation years beginning before January 1,~~
10 ~~1999, the interest rate to be used to determine~~
11 ~~such actuarial equivalent amount in this~~
12 ~~subparagraph shall be the rate specified in the~~
13 ~~actuarial tables adopted by the State Board;~~
14 ~~however, the interest rate used in determining an~~
15 ~~actuarially equivalent pre-age sixty-two (62)~~
16 ~~amount shall not be less than five percent (5%).~~

17 ~~(2) Effective for limitation years beginning on or~~
18 ~~after January 1, 1999, the actuarial equivalent~~
19 ~~adjustments in this subparagraph shall be~~
20 ~~determined using the prevailing Commissioner's~~
21 ~~standard table (described in Section 807(d)(5)(A)~~
22 ~~of the Internal Revenue Code of 1986), without~~
23 ~~regard to any other subparagraph of Section~~
24 ~~807(d)(5) of the Internal Revenue Code of 1986,~~

1 ~~used to determine reserves for group annuity~~
2 ~~contracts issued on the date as of which the~~
3 ~~payment is being determined. The interest rate~~
4 ~~shall be five percent (5%). Notwithstanding any~~
5 ~~other System provisions to the contrary, for~~
6 ~~distributions with annuity starting dates on or~~
7 ~~after December 31, 2002, the applicable mortality~~
8 ~~table used for purposes of adjusting any benefit~~
9 ~~or limitation under Sections 415(b) (2) (B), (C) or~~
10 ~~(D) of the Internal revenue Code of 1986, as~~
11 ~~amended, is the table described in Rev. Rul.~~
12 ~~2001-62.~~

13 ~~(3) For~~

14 D. Adjustment of Dollar Limitation for Benefit Commencement

15 Before Sixty-two (62) Years of Age or After Sixty-five (65) Years of
16 Age: Effective for benefits commencing in limitation years ending
17 after December 31, 2001, the dollar limitation under subsection B of
18 this section shall be adjusted if the annuity starting date of the
19 member's benefit is before sixty-two (62) years of age or after
20 sixty-five (65) years of age. If the annuity starting date is
21 before sixty-two (62) years of age, the dollar limitation under
22 subsection B of this section shall be adjusted under paragraph 1 of
23 this subsection, as modified by paragraph 3 of this subsection, but
24 subject to paragraph 4 of this subsection. If the annuity starting

1 date is after sixty-five (65) years of age, the dollar limitation
2 under subsection B of this section shall be adjusted under paragraph
3 2 of this subsection, as modified by paragraph 3 of this subsection.

4 1. Adjustment of Defined Benefit Dollar Limitation for Benefit
5 Commencement Before Sixty-two (62) Years of Age:

6 a. Limitation Years Beginning Before July 1, 2007. If
7 the annuity starting date for the member's benefit is
8 prior to sixty-two (62) years of age and occurs in a
9 limitation year beginning before July 1, 2007, the
10 dollar limitation for the member's annuity starting
11 date is the annual amount of a benefit payable in the
12 form of a straight life annuity commencing at the
13 member's annuity starting date that is the actuarial
14 equivalent of the dollar limitation under subsection B
15 of this section (adjusted under subsection C of this
16 section for years of participation less than ten (10),
17 if required) with actuarial equivalence computed using
18 whichever of the following produces the smaller annual
19 amount:

20 (1) the interest rate and the mortality table or
21 other tabular factor, each as set forth in
22 subsection H of Section 49-100.9 of this title,
23 or

1 (2) a five percent (5%) interest rate assumption and
2 the applicable mortality table as described in
3 Revenue Ruling 2001-62.

4 b. Limitation Years Beginning On Or After July 1, 2007.

5 (1) System Does Not Have Immediately Commencing
6 Straight Life Annuity Payable at Both Sixty-two
7 (62) Years of Age and the Age of Benefit
8 Commencement. If the annuity starting date for
9 the member's benefit is prior to sixty-two (62)
10 years of age and occurs in a limitation year
11 beginning on or after July 1, 2007, and the
12 System does not have an immediately commencing
13 straight life annuity payable at both sixty-two
14 (62) years of age and the age of benefit
15 commencement, the dollar limitation for the
16 member's annuity starting date is the annual
17 amount of a benefit payable in the form of a
18 straight life annuity commencing at the member's
19 annuity starting date that is the actuarial
20 equivalent of the dollar limitation under
21 subsection B of this section (adjusted under
22 subsection C of this section for years of
23 participation less than ten (10), if required)
24 with actuarial equivalence computed using a five

1 percent (5%) interest rate assumption and the
2 applicable mortality table for the annuity
3 starting date as described in Revenue Ruling
4 2001-62 (and expressing the member's age based on
5 completed calendar months as of the annuity
6 starting date).

7 (2) System Has Immediately Commencing Straight Life
8 Annuity Payable at Both Sixty-two (62) Years of
9 Age and the Age of Benefit Commencement. If the
10 annuity starting date for the member's benefit is
11 prior to sixty-two (62) years of age and occurs
12 in a limitation year beginning on or after July
13 1, 2007, and the System has an immediately
14 commencing straight life annuity payable at both
15 sixty-two (62) years of age and the age of
16 benefit commencement, the dollar limitation for
17 the member's annuity starting date is the lesser
18 of the limitation determined under division (1)
19 of this subparagraph b of this paragraph and the
20 dollar limitation under subsection B of this
21 section (adjusted under subsection C of this
22 section for years of participation less than ten
23 (10), if required) multiplied by the ratio of the
24 annual amount of the immediately commencing

1 straight life annuity under the System at the
2 member's annuity starting date to the annual
3 amount of the immediately commencing straight
4 life annuity under the System at sixty-two (62)
5 years of age, both determined without applying
6 the limitation of this section.

7 2. Adjustment of Defined Benefit Dollar Limitation for Benefit
8 Commencement After Sixty-five (65) Years of Age:

9 a. Limitation Years Beginning Before July 1, 2007. If
10 the annuity starting date for the member's benefit is
11 after sixty-five (65) years of age and occurs in a
12 limitation year beginning before July 1, 2007, the
13 dollar limitation for the member's annuity starting
14 date is the annual amount of a benefit payable in the
15 form of a straight life annuity commencing at the
16 member's annuity starting date that is the actuarial
17 equivalent of the dollar limitation under subsection B
18 of this section (adjusted under subsection C of this
19 section for years of participation less than ten (10),
20 if required) with actuarial equivalence computed using
21 whichever of the following produces the smaller annual
22 amount:

23 (1) the interest rate and the mortality table or
24 other tabular factor, each as set forth in

1 subsection H of Section 49-100.9 of this title,
2 or

3 (2) a five percent (5%) interest rate assumption and
4 the applicable mortality table as described in
5 Revenue Ruling 2001-62.

6 b. Limitation Years Beginning On Or After July 1, 2007.

7 (1) System Does Not Have Immediately Commencing
8 Straight Life Annuity Payable at Both Sixty-five
9 (65) Years of Age and the Age of Benefit
10 Commencement. If the annuity starting date for
11 the member's benefit is after sixty-five (65)
12 years of age and occurs in a limitation year
13 beginning on or after July 1, 2007, and the
14 System does not have an immediately commencing
15 straight life annuity payable at both sixty-five
16 (65) years of age and the age of benefit
17 commencement, the dollar limitation at the
18 member's annuity starting date is the annual
19 amount of a benefit payable in the form of a
20 straight life annuity commencing at the member's
21 annuity starting date that is the actuarial
22 equivalent of the dollar limitation under
23 subsection B of this section (adjusted under
24 subsection C of this section for years of

1 participation less than ten (10), if required)
2 with actuarial equivalence computed using a five
3 percent (5%) interest rate assumption and the
4 applicable mortality table for the annuity
5 starting date as described in Revenue Ruling
6 2001-62 (and expressing the member's age based on
7 completed calendar months as of the annuity
8 starting date).

9 (2) System Has Immediately Commencing Straight Life
10 Annuity Payable at Both Sixty-five (65) Years of
11 Age and Age of Benefit Commencement. If the
12 annuity starting date for the member's benefit is
13 after sixty-five (65) years of age and occurs in
14 a limitation year beginning on or after July 1,
15 2007, and the System has an immediately
16 commencing straight life annuity payable at both
17 sixty-five (65) years of age and the age of
18 benefit commencement, the dollar limitation at
19 the member's annuity starting date is the lesser
20 of the limitation determined under division (1)
21 of subparagraph b of this paragraph and the
22 dollar limitation under subsection B of this
23 section (adjusted under subsection C of this
24 section for years of participation less than ten

1 (10), if required) multiplied by the ratio of the
2 annual amount of the adjusted immediately
3 commencing straight life annuity under the System
4 at the member's annuity starting date to the
5 annual amount of the adjusted immediately
6 commencing straight life annuity under the System
7 at sixty-five (65) years of age, both determined
8 without applying the limitations of this section.
9 For this purpose, the adjusted immediately
10 commencing straight life annuity under the System
11 at the member's annuity starting date is the
12 annual amount of such annuity payable to the
13 member, computed disregarding the member's
14 accruals after sixty-five (65) years of age but
15 including actuarial adjustments even if those
16 actuarial adjustments are used to offset
17 accruals; and the adjusted immediately commencing
18 straight life annuity under the System at sixty-
19 five (65) years of age is the annual amount of
20 such annuity that would be payable under the
21 System to a hypothetical member who is sixty-five
22 (65) years of age and has the same accrued
23 benefit as the member.

1 3. Notwithstanding the other requirements of this subsection,
2 no adjustment shall be made to the dollar limitation under
3 subsection B of this section to reflect the probability of a
4 member's death between the annuity starting date and sixty-two (62)
5 years of age, or between sixty-five (65) years of age and the
6 annuity starting date, as applicable, if benefits are not forfeited
7 upon the death of the member prior to the annuity starting date. To
8 the extent benefits are forfeited upon death before the annuity
9 starting date, such an adjustment shall be made. For this purpose,
10 no forfeiture shall be treated as occurring upon the member's death
11 if the System does not charge members for providing a qualified
12 preretirement survivor annuity, as defined in Section 417(c) of the
13 Internal Revenue Code of 1986, as amended, upon the member's death.

14 4. Notwithstanding any other provision to the contrary, for
15 limitation years beginning on or after January 1, 1997, if payment
16 begins before the member reaches age sixty-two (62) years of age,
17 the reductions in the limitations in this ~~subparagraph~~ subsection
18 shall not apply to a member who is a "qualified participant" as
19 defined in Section 415(b)(2)(H) of the Internal Revenue Code of
20 1986, as amended.

21 ~~b. If payment begins after the member reaches sixty-five~~
22 ~~(65) years of age, the limitation in paragraph 1 of~~
23 ~~this subsection shall be the actuarial equivalent of~~
24

1 ~~such amount otherwise applicable at the member~~
2 ~~reaching sixty five (65) years of age.~~

3 ~~(1) For limitation years beginning before January 1,~~
4 ~~1999, the interest rate to be used to determine~~
5 ~~such actuarial equivalent amount in this~~
6 ~~subparagraph shall be the rate specified in the~~
7 ~~actuarial tables adopted by the State Board,~~
8 ~~however, the interest rate used in determining an~~
9 ~~actuarially equivalent post age sixty five (65)~~
10 ~~amount shall not be greater than five percent~~
11 ~~(5%).~~

12 ~~(2) Effective for limitation years beginning on or~~
13 ~~after January 1, 1999, the actuarial equivalent~~
14 ~~adjustments in this subparagraph shall use the~~
15 ~~mortality and interest rate basis provided in~~
16 ~~division (2) of subparagraph a of this paragraph.~~

17 7. E. Minimum Benefit Permitted: Notwithstanding anything else
18 in this section to the contrary, the benefit otherwise accrued or
19 payable to a member under this System shall be deemed not to exceed
20 the maximum permissible benefit if:

21 1. The retirement benefits payable for a limitation year under
22 any form of benefit with respect to such member under this System
23 and under all other defined benefit plans (without regard to whether
24 a plan has been terminated) ever maintained by a participating

1 municipality do not exceed Ten Thousand Dollars (\$10,000.00)

2 multiplied by a fraction:

3 a. the numerator of which is the member's number of
4 credited years (or part thereof, but not less than one
5 (1) year) of service (not to exceed ten (10)) with the
6 participating municipality, and

7 b. the denominator of which is ten (10); and

8 2. The participating municipality (or a predecessor employer)
9 has not at any time maintained a defined contribution plan in which
10 the member participated (for this purpose, mandatory employee
11 contributions under a defined benefit plan, individual medical
12 accounts under Section 401(h) of the Internal Revenue Code of 1986,
13 as amended, and accounts for postretirement medical benefits
14 established under Section 419A(d) (1) of the Internal Revenue Code of
15 1986, as amended, are not considered a separate defined contribution
16 plan).

17 F. In no event shall the maximum annual accrued retirement
18 benefit of a member allowable under this section be less than the
19 annual amount of such accrued retirement benefit, including early
20 pension and qualified joint and survivor annuity amounts, duly
21 accrued by the member as of the last day of the limitation year
22 beginning in 1982, or as of the last day of the limitation year
23 beginning in 1986, whichever is greater, disregarding any plan
24 changes or cost-of-living adjustments occurring after July 1, 1982,

1 as to the 1982 accrued amount, and May 5, 1986, as to the 1986
2 accrued amount.

3 ~~8.~~ G. For limitation years beginning on or after January 1,
4 1995, ~~paragraphs 4, 5 and 6 of this subsection C of this section,~~
5 paragraph 1 of subsection D of this section, and the proration
6 provided under subparagraphs a and b of paragraph 1 of subsection E
7 of this section, shall not apply to a benefit paid under the System
8 as a result of the member becoming disabled by reason of personal
9 injuries or sickness, or amounts received by the beneficiaries,
10 survivors or estate of the member as a result of the death of the
11 member.

12 ~~9.~~ H. Effective for years beginning after December 31, 1997, if
13 a member purchases service under Sections 49-117.2 and 49-117.3 of
14 this title, which qualifies as "permissive service credit" pursuant
15 to Section 415(n) of the Internal Revenue Code of 1986, as amended,
16 the limitations of Section 415 of the Internal Revenue Code of 1986,
17 as amended, may be met by either:

18 a. ~~treating~~

19 1. Treating the accrued benefit derived from such contributions
20 as an annual benefit under ~~paragraph 1 of this subsection,~~ B of this
21 section; or

22 b. ~~treating~~

23

24

1 2. Treating all such contributions as annual additions for
 2 purposes of Section 415(c) of the Internal Revenue Code of 1986, as
 3 amended.

4 ~~10.~~ I. Effective for years beginning after December 31, 1997,
 5 if a member repays to the System any amounts received because of the
 6 member's prior termination pursuant to Section 49-117.1 of this
 7 title, such repayment shall not be taken into account for purposes
 8 of Section 415 of the Internal Revenue Code of 1986, as amended,
 9 pursuant to Section 415(k)(3) of the Internal Revenue Code of 1986,
 10 as amended.

11 ~~C.~~ J. For distributions made in limitation years beginning on
 12 or after January 1, 2000, the combined limit of repealed Section
 13 415(e) of the Internal Revenue Code of 1986, as amended, shall not
 14 apply.

15 ~~D.~~ K. The State Board is hereby authorized to revoke the
 16 special election previously made on June 21, 1991, under Internal
 17 Revenue Code Section 415(b)(10).

18 SECTION 3. AMENDATORY 11 O.S. 2001, Section 49-106.3, as
 19 last amended by Section 2, Chapter 345, O.S.L. 2007 (11 O.S. Supp.
 20 2007, Section 49-106.3), is amended to read as follows:

21 Section 49-106.3 A. For distributions made on or after January
 22 1, 1993, and notwithstanding any provision of the System to the
 23 contrary that would otherwise limit a Distributee's election
 24 hereunder, a Distributee may elect, at the time and in the manner

1 prescribed by the State Board, to have any portion of an Eligible
2 Rollover Distribution paid directly to an Eligible Retirement Plan
3 specified by the Distributee in a Direct Rollover.

4 B. For purposes of this section, the following definitions
5 shall apply:

6 1. "Eligible Rollover Distribution" means any distribution of
7 all or any portion of the balance to the credit of the Distributee,
8 except that an Eligible Rollover Distribution does not include any
9 distribution that is one of a series of substantially equal periodic
10 payments (not less frequently than annually) made for the life (or
11 life expectancy) of the Distributee or the joint lives (or life
12 expectancies) of the Distributee and the Distributee's designated
13 beneficiary, or for a specified period of ten (10) years or more;
14 any distribution to the extent such distribution is required under
15 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;
16 and the portion of any distribution that is not includable in gross
17 income; ~~provided, however, that, effective.~~ Effective January 1,
18 2002, a portion of a distribution shall not fail to be an Eligible
19 Rollover Distribution merely because the portion consists of after-
20 tax member contributions which are not includable in gross income.
21 However, such portion may be paid only:

22 (a) from January 1, 2002, through December 31, 2006, to:
23
24

- 1 (1) an individual retirement account or annuity
2 described in Section 408(a) or (b) of the
3 Internal Revenue Code of 1986, as amended, or
4 (2) a qualified trust which is a part of a defined
5 contribution plan described in Section 401(a) or
6 403(a) of the Internal Revenue Code of 1986, as
7 amended, and which agrees to separately account
8 for amounts so transferred, including separately
9 accounting for the portion of such distribution
10 which is includable in gross income and the
11 portion of such distribution which is not so
12 includable, and

13 (b) on or after January 1, 2007, to:

- 14 (1) an individual retirement account or annuity
15 described in Section 408(a) or (b) of the
16 Internal Revenue Code of 1986, as amended, or
17 (2) a qualified trust described in Section 401(a) or
18 403(a) of the Internal Revenue Code of 1986, as
19 amended, or an annuity contract described in
20 Section 403(b) of the Internal Revenue Code of
21 1986, as amended, and such trust or annuity
22 contract provides for separate accounting for
23 amounts so transferred (and earnings thereon),
24 including separately accounting for the portion

1 of such distribution which is includable in gross
2 income and the portion of such distribution which
3 is not so includable;

4 2. "Eligible Retirement Plan" means an individual retirement
5 account described in Section 408(a) of the Internal Revenue Code of
6 1986, as amended, an individual retirement annuity described in
7 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
8 annuity plan described in Section 403(a) of the Internal Revenue
9 Code of 1986, as amended, or a qualified trust described in Section
10 401(a) of the Internal Revenue Code of 1986, as amended, that
11 accepts the Distributee's Eligible Rollover Distribution. Effective
12 January 1, 2002, an Eligible Retirement Plan shall also mean an
13 annuity contract described in Section 403(b) of the Internal Revenue
14 Code of 1986, as amended, and an eligible plan under Section 457(b)
15 of the Internal Revenue Code of 1986, as amended, which is
16 maintained by a state, political subdivision of a state, or any
17 agency or instrumentality of a state or political subdivision of a
18 state and which agrees to separately account for amounts transferred
19 into such plan from the System. ~~Effective January 1, 2002, the~~
20 ~~definition of Eligible Retirement Plan shall also apply in the case~~
21 ~~of a distribution to a surviving spouse, or to a spouse or former~~
22 ~~spouse who is the alternate payee pursuant to a qualified domestic~~
23 ~~order as defined in subsection B of Section 49-126 of this title.~~

1 ~~An Eligible Retirement Plan does not include a Roth IRA under~~
2 ~~Section 408A of the Internal Revenue Code of 1986, as amended;~~

3 3. "Distributee" means a member whether or not ~~said~~ the member
4 is an active firefighter. In addition, effective June 7, 1993, the
5 member's surviving spouse and the member's spouse or former spouse
6 who is an alternate payee under a qualified domestic order, as
7 provided in subsection B of Section 49-126 of this title, are
8 Distributees with regard to the interest of the spouse or former
9 spouse. Effective for distributions after December 31, 2006, a
10 Distributee also includes the member's nonspouse designated
11 beneficiary, pursuant to Section 401(a)(9)(E) of the Internal
12 Revenue Code of 1986, as amended. In the case of a nonspouse
13 beneficiary, the Direct Rollover may be made only to an individual
14 retirement account or annuity (other than an endowment contract)
15 described in Section 408(a) or (b) of the Internal Revenue Code of
16 1986, as amended, (IRA), that is established on behalf of such
17 designated beneficiary and that will be treated as an inherited IRA
18 pursuant to the provisions of Section 402(c)(11) of the Internal
19 Revenue Code of 1986, as amended. Also, in this case, the
20 determination of any required minimum distribution under Section
21 401(a)(9) of the Internal Revenue Code of 1986, as amended, that is
22 ineligible for rollover shall be made in accordance with Notice
23 2007-7, Q&A 17 and 18, Announcement 2007-5 Internal Revenue Bulletin
24 395. The required minimum distribution rules of Section

1 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue
2 Code of 1986, as amended, apply to the transferee IRA; and

3 4. "Direct Rollover" means a payment by the System to the
4 Eligible Retirement Plan specified by the Distributee or, on or
5 after January 1, 2008, to a Roth IRA under Section 408A of the
6 Internal Revenue Code of 1986, as amended, as specified by the
7 Distributee, assuming the Distributee otherwise meets the Roth IRA
8 requirements.

9 C. At least thirty (30) days before and, effective January 1,
10 2007, not more than one hundred eighty (180) days before the date of
11 distribution, the Distributee must be provided with a notice of
12 rights which satisfies Section 402(f) of the Internal Revenue Code
13 of 1986, as amended, as to rollover options and tax effects. Such
14 distribution may commence less than thirty (30) days after the
15 notice is given, provided that:

16 1. The State Board clearly informs the Distributee that the
17 Distributee has a right to a period of at least thirty (30) days
18 after receiving the notice to consider the decision of whether or
19 not to elect a distribution; and

20 2. The Distributee, after receiving the notice, affirmatively
21 elects a distribution.

22 SECTION 4. AMENDATORY 11 O.S. 2001, Section 50-111.3, as
23 last amended by Section 4, Chapter 551, O.S.L. 2004 (11 O.S. Supp.
24 2007, Section 50-111.3), is amended to read as follows:

1 Section 50-111.3 A. In lieu of terminating employment and
2 accepting a service retirement pension pursuant to Section 50-114 of
3 this title, any member of the Oklahoma Police Pension and Retirement
4 System who has not less than twenty (20) years of creditable service
5 and who is eligible to receive a service retirement pension may
6 elect to participate in the Oklahoma Police Deferred Option Plan and
7 defer the receipts of benefits in accordance with the provisions of
8 this section.

9 B. For purposes of this section, creditable service shall
10 include service credit reciprocally recognized pursuant to Section
11 50-101 et seq. of this title but for eligibility purposes only.

12 C. The duration of participation in the Oklahoma Police
13 Deferred Option Plan for a member shall not exceed five (5) years.
14 Participation in the Oklahoma Police Deferred Option Plan must begin
15 the first day of a month and end on the last day of a month. At the
16 conclusion of a member's participation in the Oklahoma Police
17 Deferred Option Plan, the member shall terminate employment with all
18 participating municipalities as an officer, and shall start
19 receiving the member's accrued monthly retirement benefit from the
20 System. Such a member may receive in-service distributions of such
21 member's accrued monthly retirement benefit from the System if such
22 member is reemployed by a participating municipality only if such
23 reemployment is as a police chief or in a position not covered under
24 the System.

1 D. When a member begins participation in the Oklahoma Police
2 Deferred Option Plan, the contribution of the employee shall cease.
3 The employer contributions shall continue to be paid in accordance
4 with Section 50-109 of this title. Municipal contributions for
5 employees who elect the Oklahoma Police Deferred Option Plan shall
6 be credited equally to the Oklahoma Police Pension and Retirement
7 System and to the Oklahoma Police Deferred Option Plan. The monthly
8 retirement benefits that would have been payable had the member
9 elected to cease employment and receive a service retirement shall
10 be paid into the Oklahoma Police Deferred Option Plan account.

11 E. 1. A member who participates in this plan shall be eligible
12 to receive cost of living increases.

13 2. A member who participates in this plan shall earn interest
14 at a rate of two percentage points below the rate of return of the
15 investment portfolio of the System, but no less than the actuarial
16 assumed interest rate as certified by the actuary in the yearly
17 evaluation report of the actuary. The interest shall be credited to
18 the individual account balance of the member on an annual basis.

19 F. A participant in the Oklahoma Police Deferred Option Plan
20 shall receive, at the option of the participant:

21 1. A lump sum payment from the account equal to the option
22 account balance of the participant, payable to the participant;

23 2. A lump sum payment from the account equal to the option
24 account balance of the participant, payable to the annuity provider

1 which shall be selected by the participant as a result of the
2 research and investigation of the participant; or

3 3. Any other method of payment if approved by the State Board.

4 G. If the participant dies during the period of participation
5 in the Oklahoma Police Deferred Option Plan, a lump sum payment
6 equal to the account balance of the participant shall be paid in
7 accordance with Section 50-115.2 of this title.

8 H. In lieu of participating in the Oklahoma Police Deferred
9 Option Plan pursuant to subsections A, B, C, D, E and F of this
10 section, a member may elect to participate in the Oklahoma Police
11 Deferred Option Plan pursuant to this subsection as follows:

12 1. For purposes of this subsection, the following definitions
13 shall apply:

14 a. "back drop date" means the ~~member's normal retirement~~
15 ~~date or the date~~ selected by the member, which is up
16 to five (5) years before the member elects to
17 participate in the Oklahoma Police Deferred Option
18 Plan, ~~whichever date is later~~ but not before the date
19 at which the member completes twenty (20) years of
20 credited service,

21 b. "termination date" means the date the member elects to
22 participate in the Oklahoma Police Deferred Option
23 Plan pursuant to this subsection, and the date the
24 member terminates employment with all participating

1 municipalities as an active police officer, such
2 termination has at all times included reemployment of
3 a member by a participating municipality only if such
4 reemployment is as a police chief or in a position not
5 covered under the System,

6 c. "earlier attained credited service" means the credited
7 service earned by a member as of the back drop date,
8 and earlier attained credited service cannot be
9 reduced to less than twenty (20) years of credited
10 service, and

11 d. "deferred benefit balance" means all monthly
12 retirement benefits that would have been payable had
13 the member elected to cease employment on the back
14 drop date and receive a service retirement from the
15 back drop date to the termination date, all of the
16 member's contributions and one-half (1/2) of the
17 employer contributions from the back drop date to the
18 termination date, with interest based on how the
19 benefit would have accumulated as if the member had
20 participated in the Oklahoma Police Deferred Option
21 Plan pursuant to subsections A, B, C, D and E of this
22 section from the back drop date to the termination
23 date;

24

1 2. At the termination date, the monthly pension benefit shall
2 be determined based on earlier attained credited service and on the
3 final average salary as of the back drop date. The member's
4 individual deferred option account shall be credited with an amount
5 equal to the deferred benefit balance; the member shall terminate
6 employment with all participating municipalities as a police officer
7 and shall start receiving the member's accrued monthly retirement
8 benefit from the System. The provisions of subsections B, C, E, F
9 and G of this section shall apply to this subsection. A member
10 shall not participate in the Oklahoma Police Deferred Option Plan
11 pursuant to this subsection if the member has elected to participate
12 in the Oklahoma Police Deferred Option Plan pursuant to subsections
13 A, B, C, D, E and F of this section; and

14 3. If a member who has not less than twenty (20) years of
15 creditable service and who is eligible to receive a service
16 retirement pension dies prior to terminating employment, the
17 surviving spouse shall be eligible to elect to receive a benefit
18 determined as if the member had elected to participate in the
19 Oklahoma Police Deferred Option Plan in accordance with this
20 subsection on the day immediately preceding the death. The
21 surviving spouse must have been married to the member for the thirty
22 (30) continuous months preceding the member's death; provided, the
23 surviving spouse of a member who died while in, and as a consequence
24 of, the performance of the member's duty for a participating

1 municipality shall not be subject to the thirty-month marriage
 2 requirement for this election.

3 SECTION 5. AMENDATORY 11 O.S. 2001, Section 50-114.1, as
 4 last amended by Section 5, Chapter 551, O.S.L. 2004 (11 O.S. Supp.
 5 2007, Section 50-114.1), is amended to read as follows:

6 Section 50-114.1 A. Notwithstanding any other provision
 7 contained herein to the contrary, the benefits payable to a member
 8 ~~in~~ from the System provided by employer contributions (including
 9 contributions picked up by the employer under Section 414(h) of the
 10 Internal Revenue Code of 1986, as amended) shall be subject to the
 11 limitations of Section 415 of the Internal Revenue Code of 1986, as
 12 amended, in accordance with the provisions of ~~paragraphs 1 and 2 of~~
 13 this section. The limitations of this section shall apply in
 14 limitation years beginning on or after July 1, 2007, except as
 15 otherwise provided below.

16 ~~1- B.~~ Except as provided ~~in subparagraphs e through g of this~~
 17 ~~paragraph~~ below, effective for limitation years ending after
 18 December 31, 2001, any accrued retirement benefit payable to a
 19 member as an annual benefit as described below shall not exceed the
 20 ~~lesser of:~~

21 ~~a-~~ One Hundred Sixty Thousand Dollars (\$160,000.00),
 22 ~~effective January 1, 2002,~~ automatically adjusted
 23 under Section 415(d) of the Internal Revenue Code of
 24 1986, as amended, for increases in the cost of living,

1 as prescribed by the Secretary of the Treasury or the
2 Secretary's delegate, effective January 1 of each
3 calendar year and applicable to the limitation year
4 ending with or within such calendar year. The
5 automatic annual adjustment of the dollar limitation
6 in this subsection under Section 415(d) of the
7 Internal Revenue Code of 1986, as amended, shall apply
8 to a member who has had a separation from employment.

9 ~~b. The limitations of this subparagraph shall apply only~~
10 ~~to limitation years beginning prior to January 1,~~
11 ~~1995. One hundred percent (100%) of the average~~
12 ~~earnings of the member for the three (3) consecutive~~
13 ~~calendar years, while a member in the System, in which~~
14 ~~the member's earnings were the highest. For purposes~~
15 ~~of this subparagraph, earnings for any limitation year~~
16 ~~shall be the earned income of the member, wages,~~
17 ~~salaries, and fees for professional services, and~~
18 ~~other amounts received for personal services actually~~
19 ~~rendered in the course of employment with a~~
20 ~~participating municipality, provided such amounts are~~
21 ~~actually paid or includable in gross income during~~
22 ~~such year. Earnings shall exclude the following:~~
23 ~~(1) contributions by a participating municipality to~~
24 ~~a plan of deferred compensation which are not~~

1 ~~included in the gross income of the member for~~
2 ~~the taxable year in which contributed or any~~
3 ~~distributions from a funded plan of deferred~~
4 ~~compensation, and~~

5 ~~(2) other amounts which received special tax~~
6 ~~benefits, or contributions made by a~~
7 ~~participating municipality, whether or not under~~
8 ~~a salary reduction agreement, towards the~~
9 ~~purchase of an annuity described in Section~~
10 ~~403(b)~~

11 1. The member's annual benefit is a benefit that is payable
12 annually in the form of a straight life annuity. Except as provided
13 below, where a benefit is payable in a form other than a straight
14 life annuity, the benefit shall be adjusted to an actuarially
15 equivalent straight life annuity that begins at the same time as
16 such other form of benefit and is payable on the first day of each
17 month, before applying the limitations of this section. For a
18 member who has or will have distributions commencing at more than
19 one annuity starting date, the annual benefit shall be determined as
20 of each such annuity starting date (and shall satisfy the
21 limitations of this section as of each such date), actuarially
22 adjusting for past and future distributions of benefits commencing
23 at the other annuity starting dates. For this purpose, the
24 determination of whether a new starting date has occurred shall be

1 made without regard to Section 1.401(a)-20, Q&A 10(d), and with
2 regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax
3 Regulations.

4 2. No actuarial adjustment to the benefit shall be made for:

- 5 a. survivor benefits payable to a surviving spouse under
6 a qualified joint and survivor annuity to the extent
7 such benefits would not be payable if the member's
8 benefit were paid in another form,
- 9 b. benefits that are not directly related to retirement
10 benefits (such as a qualified disability benefit,
11 preretirement incidental death benefits, and
12 postretirement medical benefits), or
- 13 c. the inclusion in the form of benefit of an automatic
14 benefit increase feature, provided the form of benefit
15 is not subject to Section 417(e)(3) of the Internal
16 Revenue Code of 1986, as amended, and would otherwise
17 satisfy the limitations of this section, and the
18 System provides that the amount payable under the form
19 of benefit in any limitation year shall not exceed the
20 limits of this section applicable at the annuity
21 starting date, as increased in subsequent years
22 pursuant to Section 415(d) of the Internal Revenue
23 Code of 1986, as amended. For this purpose, an
24 automatic benefit increase feature is included in a

1 form of benefit if the form of benefit provides for
2 automatic, periodic increases to the benefits paid in
3 that form.

4 3. The determination of the annual benefit shall take into
5 account Social Security supplements described in Section 411(a) (9)
6 of the Internal Revenue Code of 1986, as amended, and benefits
7 transferred from another defined benefit plan, other than transfers
8 of distributable benefits pursuant to Section 1.411(d)-4, Q&A-3(c),
9 of the Income Tax Regulations, but shall disregard benefits
10 attributable to employee contributions or rollover contributions.

11 4. Effective for distributions in plan years beginning after
12 December 31, 2003, the determination of actuarial equivalence of
13 forms of benefit other than a straight life annuity shall be made in
14 accordance with paragraph 5 or paragraph 6 of this subsection.

15 5. Benefit Forms Not Subject to Section 417(e) (3) of the
16 Internal Revenue Code of 1986, as amended, ~~whether or not the~~
17 ~~amounts are actually excludable from the gross income of the~~
18 ~~member.~~ The straight life annuity that is actuarially equivalent
19 to the member's form of benefit shall be determined under this
20 paragraph 5 if the form of the member's benefit is either:

21 e. ~~Except as provided in subparagraph e of this~~
22 ~~paragraph, the limitations specified in subparagraphs~~
23 ~~a and b of this paragraph shall not be applicable with~~
24 ~~respect to any member whose total annual accrued~~

1 ~~retirement benefit payable from the System is less~~
2 ~~than Ten Thousand Dollars (\$10,000.00) and who has not~~
3 ~~at any time participated in any contribution plan,~~
4 ~~within the meaning of Section 415(k) of the Internal~~
5 ~~Revenue Code of 1986, maintained by a participating~~
6 ~~municipality.~~

7 a. a nondecreasing annuity (other than a straight life
8 annuity) payable for a period of not less than the
9 life of the member (or, in the case of a qualified
10 preretirement survivor annuity, the life of the
11 surviving spouse), or

12 b. an annuity that decreases during the life of the
13 member merely because of:

14 (1) the death of the survivor annuitant (but only if
15 the reduction is not below fifty percent (50%) of
16 the benefit payable before the death of the
17 survivor annuitant), or

18 (2) the cessation or reduction of Social Security
19 supplements or qualified disability payments (as
20 defined in Section 401(a)(11) of the Internal
21 Revenue Code of 1986, as amended).

22 c. Limitation Years Beginning Before July 1, 2007. For
23 limitation years beginning before July 1, 2007, the
24 actuarially equivalent straight life annuity is equal

1 to the annual amount of the straight life annuity
2 commencing at the same annuity starting date that has
3 the same actuarial present value as the member's form
4 of benefit computed using whichever of the following
5 produces the greater annual amount:

6 (1) the interest rate and the mortality table (or
7 other tabular factor), each as set forth in
8 subsection G of Section 50-105.4 of this title
9 for adjusting benefits in the same form; and

10 (2) a five percent (5%) interest rate assumption and
11 the applicable mortality table described in Rev.
12 Rul. 2001-62 for that annuity starting date.

13 d. Limitation Years Beginning On Or After July 1, 2007.

14 For limitation years beginning on or after July 1,
15 2007, the actuarially equivalent straight life annuity
16 is equal to the greater of:

17 (1) the annual amount of the straight life annuity
18 (if any) payable to the member under the System
19 commencing at the same annuity starting date as
20 the member's form of benefit, and

21 (2) the annual amount of the straight life annuity
22 commencing at the same annuity starting date that
23 has the same actuarial present value as the
24 member's form of benefit, computed using a five

1 percent (5%) interest rate assumption and the
2 applicable mortality table described in Rev. Rul.
3 2001-62 for that annuity starting date.

4 6. Benefit Forms Subject to Section 417(e)(3) of the Internal
5 Revenue Code of 1986, as amended: The straight life annuity that is
6 actuarially equivalent to the member's form of benefit shall be
7 determined under this paragraph 6 if the form of the member's
8 benefit is other than a benefit form described in paragraph 5 of
9 this subsection. In this case, the actuarially equivalent straight
10 life annuity shall be determined as follows:

11 a. Annuity Starting Date in Plan Years Beginning After
12 2005. If the annuity starting date of the member's
13 form of benefit is in a plan year beginning after
14 2005, the actuarially equivalent straight life annuity
15 is equal to the greatest of:

16 (1) the annual amount of the straight life annuity
17 commencing at the same annuity starting date that
18 has the same actuarial present value as the
19 member's form of benefit, computed using the
20 interest rate and the mortality table (or other
21 tabular factor) each as set forth in subsection G
22 of Section 50-105.4 of this title for adjusting
23 benefits in the same form,

1 (2) the annual amount of the straight life annuity
2 commencing at the same annuity starting date that
3 has the same actuarial present value as the
4 member's form of benefit, computed using a five
5 and one-half percent (5.5%) interest rate
6 assumption and the applicable mortality table
7 described in Rev. Rul. 2001-62, and

8 (3) the annual amount of the straight life annuity
9 commencing at the same annuity starting date that
10 has the same actuarial present value as the
11 member's form of benefit, computed using:

12 (a) the rate of interest on thirty-year Treasury
13 securities as specified by the Commissioner
14 for the lookback month for the stability
15 period specified below. The lookback month
16 applicable to the stability period is the
17 fourth calendar month preceding the first
18 day of the stability period, as specified
19 below. The stability period is the
20 successive period of one (1) plan year which
21 contains the annuity starting date for the
22 distribution and for which the applicable
23 interest rate remains constant, and

1 (b) the applicable mortality table described in
2 Rev. Rul. 2001-62,
3 divided by one and five one-hundredths (1.05).

4 b. Annuity Starting Date in Plan Years Beginning in 2004
5 or 2005:

6 (1) If the annuity starting date of the member's form
7 of benefit is in a plan year beginning in 2004 or
8 2005, the actuarially equivalent straight life
9 annuity is equal to the annual amount of the
10 straight life annuity commencing at the same
11 annuity starting date that has the same actuarial
12 present value as the member's form of benefit,
13 computed using whichever of the following
14 produces the greater annual amount:

15 (a) the interest rate and the mortality table
16 (or other tabular factor) each as set forth
17 in subsection G of Section 50-105.4 of this
18 title for adjusting benefits in the same
19 form, and

20 (b) a five and one-half percent (5.5%) interest
21 rate assumption and the applicable mortality
22 table described in Rev. Rul. 2001-62.

23 (2) If the annuity starting date of the member's
24 benefit is on or after the first day of the first

1 plan year beginning in 2004 and before December
2 31, 2004, the application of this subparagraph b
3 shall not cause the amount payable under the
4 member's form of benefit to be less than the
5 benefit calculated under the System, taking into
6 account the limitations of this section, except
7 that the actuarially equivalent straight life
8 annuity is equal to the annual amount of the
9 straight life annuity commencing at the same
10 annuity starting date that has the same actuarial
11 present value as the member's form of benefit,
12 computed using whichever of the following
13 produces the greatest annual amount:

14 (a) the interest rate and mortality table (or
15 other tabular factor) each as set forth in
16 subsection G of Section 50-105.4 of this
17 title for adjusting benefits in the same
18 form,

19 (b) (i) the rate of interest on thirty-year
20 Treasury securities as specified by the
21 Commissioner for the lookback month for
22 the stability period specified below.
23 The lookback month applicable to the
24 stability period is the fourth calendar

1 month preceding the first day of the
2 stability period, as specified below.

3 The stability period is the successive
4 period of one (1) plan year which
5 contains the annuity starting date for
6 the distribution and for which the
7 applicable interest rate remains
8 constant, and

9 (ii) the applicable mortality table
10 described in Rev. Rul. 2001-62, and

11 (c) (i) the rate of interest on thirty-year
12 Treasury securities as specified by the
13 Commissioner for the lookback month for
14 the stability period specified below.

15 The lookback month applicable to the
16 stability period is the fourth calendar
17 month preceding the first day of the
18 stability period, as specified below.

19 The stability period is the successive
20 period of one (1) plan year which
21 contains the annuity starting date for
22 the distribution and for which the
23 applicable interest rate remains
24 constant (as in effect on the last day

1 of the last plan year beginning before
2 January 1, 2004, under provisions of
3 the System then adopted and in effect),
4 and

5 (ii) the applicable mortality table
6 described in Rev. Rul. 2001-62.

7 C. If a member has less than ten (10) years of participation in
8 the System and all predecessor municipal police pension and
9 retirement systems, the dollar limitation otherwise applicable under
10 ~~subparagraph a subsection B of this paragraph section~~ shall be
11 ~~reduced by multiplying such limitation~~ multiplied by a fraction, the
12 numerator of which is the number of the years of participation in
13 the System of the member, but never less than one (1), and the
14 denominator of which is ten (10). ~~This subparagraph, to the extent~~
15 ~~required by the Secretary of the Treasury, shall be applied~~
16 ~~separately to each change in benefit structure hereunder.~~

17 ~~e. Effective for limitation years beginning on or after~~
18 ~~January 1, 1995, if a member has been credited with~~
19 ~~less than ten (10) years of credited service, the~~
20 ~~dollar amount otherwise applicable under subparagraph~~
21 ~~e of this paragraph shall be reduced by multiplying~~
22 ~~such dollar amount by a fraction, the numerator of~~
23 ~~which is the number of the years of credited service~~

1 ~~of the member, but never less than one (1), and the~~
2 ~~denominator of which is ten (10).~~

3 ~~f. The limitations specified in this section shall apply~~
4 ~~to a straight life annuity with no ancillary benefits~~
5 ~~and to an annuity that constitutes a qualified joint~~
6 ~~and survivor annuity. If payment is in a different~~
7 ~~form, the amount thereof shall be adjusted to be the~~
8 ~~actuarial equivalent of a single life annuity and the~~
9 ~~limitations shall be applied to such adjusted amount.~~
10 ~~Such adjustment shall be based on the mortality tables~~
11 ~~and interest rates described in subdivisions (a), (b)~~
12 ~~and (c) of division (1) of this subparagraph.~~

13 ~~(1) If payment begins before the member reaches age~~
14 ~~sixty two (62) years of age, the limitation in~~
15 ~~subparagraph a of this paragraph shall be reduced~~
16 ~~on an actuarially equivalent basis, provided~~
17 ~~however, prior to January 1, 2002, if such~~
18 ~~payment begins after the member reaches fifty~~
19 ~~five (55) years of age, the reduced limit shall~~
20 ~~not be less than Seventy five Thousand Dollars~~
21 ~~(\$75,000.00) and, if payment begins prior to the~~
22 ~~member reaching fifty five (55) years of age, the~~
23 ~~reduced limit shall not be less than the~~
24 ~~actuarial equivalent of the Seventy five Thousand~~

1 ~~Dollar (\$75,000.00) limit for age fifty-five~~
2 ~~(55); provided further, that in no event shall~~
3 ~~such amount be reduced below Fifty Thousand~~
4 ~~Dollars (\$50,000.00), adjusted for increases in~~
5 ~~the cost of living, as prescribed by the~~
6 ~~Secretary of Treasury, or the Secretary's~~
7 ~~delegate.~~

8 ~~(a) For limitation years beginning before~~
9 ~~January 1, 1999, the interest rate to be~~
10 ~~used to determine such actuarial equivalent~~
11 ~~amount in this division shall be the rate~~
12 ~~specified in the actuarial tables adopted by~~
13 ~~the State Board; however, the interest rate~~
14 ~~used in determining an actuarially~~
15 ~~equivalent pre-age sixty-two amount shall~~
16 ~~not be less than five percent (5%).~~

17 ~~(b) Effective for limitation years beginning on~~
18 ~~or after January 1, 1999, the actuarial~~
19 ~~equivalent adjustments in this division~~
20 ~~shall be determined using the prevailing~~
21 ~~commissioner's standard table described in~~
22 ~~Code Section 807(d)(5)(A), without regard to~~
23 ~~any other subparagraph of Code Section~~
24 ~~807(d)(5), used to determine reserves for~~

1 ~~group annuity contracts issued on the date~~
2 ~~as of which the payment is being determined.~~
3 ~~Notwithstanding any other System provisions~~
4 ~~to the contrary, for distributions with~~
5 ~~annuity starting dates on or after December~~
6 ~~31, 2002, the applicable mortality table~~
7 ~~used for purposes of adjusting any benefit~~
8 ~~or limitation under Sections 415(b)(2)(B),~~
9 ~~(C), or (D) of the Internal Revenue Code of~~
10 ~~1986, as amended, is the table described in~~
11 ~~Rev. Rul. 2001-62. The interest rate shall~~
12 ~~be five percent (5%).~~

13 ~~(c) For~~

14 D. Adjustment of Dollar Limitation for Benefit Commencement

15 Before Age Sixty-two (62) or After Age Sixty-five (65): Effective
16 for benefits commencing in limitation years ending after December
17 31, 2001, the dollar limitation under subsection B of this section
18 shall be adjusted if the annuity starting date of the member's
19 benefit is before age sixty-two (62) or after age sixty-five (65).
20 If the annuity starting date is before age sixty-two (62), the
21 dollar limitation under subsection B of this section shall be
22 adjusted under paragraph 1 of this subsection, as modified by
23 paragraph 3 of this subsection, but subject to paragraph 4 of this
24 subsection. If the annuity starting date is after age sixty-five

1 (65), the dollar limitation under subsection B of this section shall
2 be adjusted under paragraph 2 of this subsection, as modified by
3 paragraph 3 of this subsection.

4 1. Adjustment of Defined Benefit Dollar Limitation for Benefit
5 Commencement Before Age Sixty-two (62):

6 a. Limitation Years Beginning Before July 1, 2007. If
7 the annuity starting date for the member's benefit is
8 prior to age sixty-two (62) and occurs in a limitation
9 year beginning before July 1, 2007, the dollar
10 limitation for the member's annuity starting date is
11 the annual amount of a benefit payable in the form of
12 a straight life annuity commencing at the member's
13 annuity starting date that is the actuarial equivalent
14 of the dollar limitation under subsection B of this
15 section (adjusted under subsection C of this section
16 for years of participation less than ten (10), if
17 required) with actuarial equivalence computed using
18 whichever of the following produces the smaller annual
19 amount:

20 (1) the interest rate and the mortality table (or
21 other tabular factor) each as set forth in
22 subsection G of Section 50-105.4 of this title,
23 or

1 (2) a five-percent interest rate assumption and the
2 applicable mortality table as described in Rev.
3 Rul. 2001-62.

4 b. Limitation Years Beginning On Or After July 1, 2007.

5 (1) System Does Not Have Immediately Commencing
6 Straight Life Annuity Payable at Both Age Sixty-
7 two (62) and the Age of Benefit Commencement. If
8 the annuity starting date for the member's
9 benefit is prior to age sixty-two (62) and occurs
10 in a limitation year beginning on or after July
11 1, 2007, and the System does not have an
12 immediately commencing straight life annuity
13 payable at both age sixty-two (62) and the age of
14 benefit commencement, the dollar limitation for
15 the member's annuity starting date is the annual
16 amount of a benefit payable in the form of a
17 straight life annuity commencing at the member's
18 annuity starting date that is the actuarial
19 equivalent of the dollar limitation under
20 subsection B of this section (adjusted under
21 subsection C of this section for years of
22 participation less than ten (10), if required)
23 with actuarial equivalence computed using a five-
24 percent interest rate assumption and the

1 applicable mortality table for the annuity
2 starting date as described in Rev. Rul. 2001-62
3 (and expressing the member's age based on
4 completed calendar months as of the annuity
5 starting date).

6 (2) System Has Immediately Commencing Straight Life
7 Annuity Payable at Both Age Sixty-two (62) and
8 the Age of Benefit Commencement. If the annuity
9 starting date for the member's benefit is prior
10 to age sixty-two (62) and occurs in a limitation
11 year beginning on or after July 1, 2007, and the
12 System has an immediately commencing straight
13 life annuity payable at both age sixty-two (62)
14 and the age of benefit commencement, the dollar
15 limitation for the member's annuity starting date
16 is the lesser of the limitation determined under
17 division (1) of subparagraph b of this paragraph
18 and the dollar limitation under subsection B of
19 this section (adjusted under subsection C of this
20 section for years of participation less than ten
21 (10), if required) multiplied by the ratio of the
22 annual amount of the immediately commencing
23 straight life annuity under the System at the
24 member's annuity starting date to the annual

1 amount of the immediately commencing straight
2 life annuity under the System at age sixty-two
3 (62), both determined without applying the
4 limitations of this section.

5 2. Adjustment of Defined Benefit Dollar Limitation for Benefit
6 Commencement After Age Sixty-five (65):

7 a. Limitation Years Beginning Before July 1, 2007. If
8 the annuity starting date for the member's benefit is
9 after age sixty-five (65) and occurs in a limitation
10 year beginning before July 1, 2007, the dollar
11 limitation for the member's annuity starting date is
12 the annual amount of a benefit payable in the form of
13 a straight life annuity commencing at the member's
14 annuity starting date that is the actuarial equivalent
15 of the dollar limitation under subsection B of this
16 section (adjusted under subsection C of this section
17 for years of participation less than ten (10), if
18 required) with actuarial equivalence computed using
19 whichever of the following produces the smaller annual
20 amount:

21 (1) the interest rate and the mortality table (or
22 other tabular factor) each as set forth in
23 subsection G of Section 50-105.4 of this title,
24 or

1 (2) a five-percent interest rate assumption and the
2 applicable mortality table as described in Rev.
3 Rul. 2001-62.

4 b. Limitation Years Beginning On Or After July 1, 2007.

5 (1) System Does Not Have Immediately Commencing
6 Straight Life Annuity Payable at Both Age Sixty-
7 five (65) and the Age of Benefit Commencement.
8 If the annuity starting date for the member's
9 benefit is after age sixty-five (65) and occurs
10 in a limitation year beginning on or after July
11 1, 2007, and the System does not have an
12 immediately commencing straight life annuity
13 payable at both age sixty-five (65) and the age
14 of benefit commencement, the dollar limitation at
15 the member's annuity starting date is the annual
16 amount of a benefit payable in the form of a
17 straight life annuity commencing at the member's
18 annuity starting date that is the actuarial
19 equivalent of the dollar limitation under
20 subsection B of this section (adjusted under
21 subsection C of this section for years of
22 participation less than ten (10), if required)
23 with actuarial equivalence computed using a five-
24 percent interest rate assumption and the

1 applicable mortality table for the annuity
2 starting date as described in Rev. Rul. 2001-62
3 (and expressing the member's age based on
4 completed calendar months as of the annuity
5 starting date).

6 (2) System Has Immediately Commencing Straight Life
7 Annuity Payable at Both Age Sixty-five (65) and
8 Age of Commencement. If the annuity starting
9 date for the member's benefit is after age sixty-
10 five (65) and occurs in a limitation year
11 beginning on or after July 1, 2007, and the
12 System has an immediately commencing straight
13 life annuity payable at both age sixty-five (65)
14 and the age of benefit commencement, the dollar
15 limitation at the member's annuity starting date
16 is the lesser of the limitation determined under
17 division (1) of subparagraph b of this paragraph
18 and the dollar limitation under subsection B of
19 this section (adjusted under subsection C of this
20 section for years of participation less than ten
21 (10), if required) multiplied by the ratio of the
22 annual amount of the adjusted immediately
23 commencing straight life annuity under the System
24 at the member's annuity starting date to the

1 annual amount of the adjusted immediately
2 commencing straight life annuity under the System
3 at age sixty-five (65), both determined without
4 applying the limitations of this section. For
5 this purpose, the adjusted immediately commencing
6 straight life annuity under the System at the
7 member's annuity starting date is the annual
8 amount of such annuity payable to the member,
9 computed disregarding the member's accruals after
10 age sixty-five (65) but including actuarial
11 adjustments even if those actuarial adjustments
12 are used to offset accruals; and the adjusted
13 immediately commencing straight life annuity
14 under the System at age sixty-five (65) is the
15 annual amount of such annuity that would be
16 payable under the System to a hypothetical member
17 who is age sixty-five (65) and has the same
18 accrued benefit as the member.

19 3. Notwithstanding the other requirements of this subsection,
20 no adjustment shall be made to the dollar limitation under
21 subsection B of this section to reflect the probability of a
22 member's death between the annuity starting date and age sixty-two
23 (62), or between age sixty-five (65) and the annuity starting date,
24 as applicable, if benefits are not forfeited upon the death of the

1 member prior to the annuity starting date. To the extent benefits
2 are forfeited upon death before the annuity starting date, such an
3 adjustment shall be made. For this purpose, no forfeiture shall be
4 treated as occurring upon the member's death if the System does not
5 charge members for providing a qualified preretirement survivor
6 annuity, as defined in Section 417(c) of the Internal Revenue Code
7 of 1986, as amended, upon the member's death.

8 4. Notwithstanding any other provision to the contrary, for
9 limitation years beginning on or after January 1, 1997, if payment
10 begins before the member reaches age sixty-two (62), the reductions
11 in the limitations in this ~~division~~ subsection shall not apply to a
12 member who is a "qualified participant" as defined in Section
13 415(b) (2) (H) of the Internal Revenue Code of 1986, as amended.

14 ~~(2) If payment begins after the member reaches age~~
15 ~~sixty-five (65) years of age, the limitation in~~
16 ~~subparagraph a of this paragraph shall be the~~
17 ~~actuarial equivalent of such amount otherwise~~
18 ~~applicable at the member reaching sixty five (65)~~
19 ~~years of age.~~

20 ~~(a) For limitation years beginning before~~
21 ~~January 1, 1999, the interest rate to be~~
22 ~~used to determine such actuarial equivalent~~
23 ~~amount in this division shall be the rate~~
24 ~~specified in the actuarial tables adopted by~~

~~the State Board, however, the interest rate used in determining an actuarially equivalent post-age sixty-five amount shall not be greater than five percent (5%).~~

~~(b) Effective for limitation years beginning on or after January 1, 1999, the actuarial equivalent adjustments in this division shall use the mortality and interest rate basis provided in subdivision (b) of division (1) of this subparagraph.~~

~~9.~~

E. Minimum Benefit Permitted: Notwithstanding anything else in this section to the contrary, the benefit otherwise accrued or payable to a member under this System shall be deemed not to exceed the maximum permissible benefit if:

1. The retirement benefits payable for a limitation year under any form of benefit with respect to such member under this System and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by a participating municipality do not exceed Ten Thousand Dollars (\$10,000.00) multiplied by a fraction:

a. the numerator of which is the member's number of credited years (or part thereof, but not less than one

1 (1) year) of service (not to exceed ten (10) years)
2 with the participating municipality, and

3 b. the denominator of which is ten (10); and

4 2. The participating municipality (or a predecessor employer)
5 has not at any time maintained a defined contribution plan in which
6 the member participated (for this purpose, mandatory employee
7 contributions under a defined benefit plan, individual medical
8 accounts under Section 401(h) of the Internal Revenue Code of 1986,
9 as amended, and accounts for postretirement medical benefits
10 established under Section 419A(d) (1) of the Internal Revenue Code of
11 1986, as amended, are not considered a separate defined contribution
12 plan).

13 F. In no event shall the maximum annual accrued retirement
14 benefit of a member allowable under this section be less than the
15 annual amount of such accrued retirement benefit, including early
16 pension and qualified joint and survivor annuity amounts, duly
17 accrued by the member as of the last day of the limitation year
18 beginning in 1982, or as of the last day of the limitation year
19 beginning in 1986, whichever is greater, disregarding any plan
20 changes or cost-of-living adjustments occurring after July 1, 1982,
21 as to the 1982 accrued amount, and May 5, 1986, as to the 1986
22 accrued amount.

23 h.

1 G. Effective for years beginning after December 31, 1997, if a
2 member purchases service pursuant to Section 50-111.2 and Section
3 50-111.4 of this title, which qualifies as "permissive service
4 credit" pursuant to Section 415(n) of the Internal Revenue Code of
5 1986, as amended, the limitations of Section 415 of the Internal
6 Revenue Code of 1986, as amended, may be met by either:

7 ~~(1) treating~~

8 1. Treating the accrued benefit derived from such contributions
9 as an annual benefit under ~~paragraph 1~~ subsection B of this section,
10 or

11 ~~(2) treating~~

12 2. Treating all such contributions as annual additions for
13 purposes of Section 415(c) of the Internal Revenue Code of 1986, as
14 amended.

15 ~~i.~~

16 H. Effective for years beginning after December 31, 1997, if a
17 member repays to the System any amounts received because of such
18 member's prior termination pursuant to subsection C of Section 50-
19 111.1 of this title, such repayment shall not be taken into account
20 for purposes of Section 415 of the Internal Revenue Code of 1986, as
21 amended, pursuant to Section 415(k) (3) of the Internal Revenue Code
22 of 1986, as amended.

23 I. For limitation years beginning on or after January 1, 1995,
24 subsection C of this section, paragraph 1 of subsection D of this

1 section, and the proration provided under subparagraphs ~~d~~, a and ~~f~~
2 b of this paragraph 1 of subsection E of this section shall not
3 apply to a benefit paid under the System as the result of the member
4 becoming disabled by reason of personal injuries or sickness, or
5 amounts received by the beneficiaries, survivors or estate of the
6 member as the result of the death of the member.

7 ~~2.~~ J. For distributions made in limitation years beginning on
8 or after January 1, 2000, the combined limit of repealed Section
9 415(e) of the Internal Revenue Code of 1986, as amended, shall not
10 apply.

11 ~~3.~~ K. The State Board is hereby authorized to revoke the
12 special election previously made on June 19, 1991, under Internal
13 Revenue Code Section 415(b)(10).

14 SECTION 6. AMENDATORY 11 O.S. 2001, Section 50-114.2, as
15 last amended by Section 3, Chapter 152, O.S.L. 2007 (11 O.S. Supp.
16 2007, Section 50-114.2), is amended to read as follows:

17 Section 50-114.2 A. This section applies to distributions made
18 on or after January 1, 1993. Notwithstanding any provision of the
19 System to the contrary that would otherwise limit a Distributee's
20 election hereunder, a Distributee may elect, at the time and in the
21 manner prescribed by the State Board, to have any portion of an
22 Eligible Rollover Distribution paid directly to an Eligible
23 Retirement Plan specified by the Distributee in a Direct Rollover.

24

1 B. For purposes of this section, the following definitions
2 shall apply:

3 1. "Eligible Rollover Distribution" means any distribution of
4 all or any portion of the balance to the credit of the Distributee,
5 except that an Eligible Rollover Distribution does not include: any
6 distribution that is one of a series of substantially equal periodic
7 payments (not less frequently than annually) made for the life (or
8 life expectancy) of the Distributee or the joint lives (or life
9 expectancies) of the Distributee and the Distributee's designated
10 beneficiary, or for a specified period of ten (10) years or more;
11 any distribution to the extent such distribution is required under
12 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;
13 and the portion of any distribution that is not includable in gross
14 income; ~~provided, however, that, effective.~~ Effective January 1,
15 2002, a portion of a distribution shall not fail to be an Eligible
16 Rollover Distribution merely because the portion consists of after-
17 tax member contributions which are not includable in gross income.
18 However, such portion may be paid only:

19 a. from January 1, 2002, through December 31, 2006, to:

20 (1) an individual retirement account or annuity
21 described in Section 408(a) or (b) of the
22 Internal Revenue Code of 1986, as amended, or

23 (2) a qualified trust which is part of a defined
24 contribution plan described in Section 401(a) or

1 403(a) of the Internal Revenue Code of 1986, as
2 amended, and which agrees to separately account
3 for amounts so transferred, including separately
4 accounting for the portion of such distribution
5 which is includable in gross income and the
6 portion of such distribution which is not so
7 includable, and

8 b. on or after January 1, 2007, to:

- 9 (1) an individual retirement account or annuity
10 described in Section 408(a) or (b) of the
11 Internal Revenue Code of 1986, as amended, or
12 (2) a qualified trust described in Section 401(a) or
13 403(a) of the Internal Revenue Code of 1986, as
14 amended, or an annuity contract described in
15 Section 403(b) of the Internal Revenue Code of
16 1986, as amended, and such trust or annuity
17 contract provides for separate accounting for
18 amounts so transferred (and earnings thereon),
19 including separately accounting for the portion
20 of such distribution which is includable in gross
21 income and the portion of such distribution which
22 is not so includable;

23 2. "Eligible Retirement Plan" means an individual retirement
24 account described in Section 408(a) of the Internal Revenue Code of

1 1986, as amended, an individual retirement annuity described in
2 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
3 annuity plan described in Section 403(a) of the Internal Revenue
4 Code of 1986, as amended, or a qualified trust described in Section
5 401(a) of the Internal Revenue Code of 1986, as amended, that
6 accepts the Distributee's Eligible Rollover Distribution. Effective
7 January 1, 2002, an Eligible Retirement Plan shall also mean an
8 annuity contract described in Section 403(b) of the Internal Revenue
9 Code of 1986, as amended, and an eligible plan under Section 457(b)
10 of the Internal Revenue Code of 1986, as amended, which is
11 maintained by a state, political subdivision of a state, or any
12 agency or instrumentality of a state or political subdivision of a
13 state and which agrees to separately account for amounts transferred
14 into such plan from the System. ~~Effective January 1, 2002, the~~
15 ~~definition of Eligible Retirement Plan shall also apply in the case~~
16 ~~of a distribution to a surviving spouse, or to a spouse or former~~
17 ~~spouse who is the alternate payee pursuant to a qualified domestic~~
18 ~~order as defined in subsection B of Section 50 124 of this title.~~
19 ~~An Eligible Retirement Plan does not include a Roth IRA under~~
20 ~~Section 408A of the Internal Revenue Code of 1986, as amended;~~

21 3. "Distributee" means an employee or former employee. In
22 addition, effective June 7, 1993, the employee's or former
23 employee's surviving spouse and the employee's or former employee's
24 spouse or former spouse who is the alternate payee under a qualified

1 domestic order, as defined in subsection B of Section 50-124 of this
2 title, are Distributees with regard to the interest of the spouse or
3 the former spouse. Effective for distributions after December 31,
4 2006, a Distributee also includes the member's nonspouse designated
5 beneficiary, pursuant to Section 401(a)(9)(E) of the Internal
6 Revenue Code of 1986, as amended. In the case of a nonspouse
7 beneficiary, the Direct Rollover may be made only to an individual
8 retirement account or annuity (other than an endowment contract)
9 described in Section 408(a) or (b) of the Internal Revenue Code of
10 1986, as amended, (IRA), that is established on behalf of such
11 designated beneficiary and that will be treated as an inherited IRA
12 pursuant to the provisions of Section 402(c)(11) of the Internal
13 Revenue Code of 1986, as amended. Also, in this case, the
14 determination of any required minimum distribution under Section
15 401(a)(9) of the Internal Revenue Code of 1986, as amended, that is
16 ineligible for rollover shall be made in accordance with Notice
17 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395. The required minimum
18 distribution rules of Section 401(a)(9)(B) (other than clause iv
19 thereof) of the Internal Revenue Code of 1986, as amended, apply to
20 the transferee IRA; and

21 4. "Direct Rollover" means a payment by the System to the
22 Eligible Retirement Plan specified by the Distributee or, on or
23 after January 1, 2008, to a Roth IRA under Section 408A of the
24 Internal Revenue Code of 1986, as amended, as specified by the

1 Distributee (assuming the Distributee otherwise meets the Roth IRA
2 requirements).

3 C. At least thirty (30) days before and, effective January 1,
4 2007, not more than one hundred eighty (180) days before the date of
5 distribution, the Distributee must be provided with a notice of
6 rights which satisfies Section 402(f) of the Internal Revenue Code
7 of 1986, as amended, as to rollover options and tax effects. Such
8 distribution may commence less than thirty (30) days after the
9 notice is given, provided that:

10 1. The State Board clearly informs the Distributee that the
11 Distributee has a right to a period of at least thirty (30) days
12 after receiving the notice to consider the decision of whether or
13 not to elect a distribution; and

14 2. The Distributee, after receiving the notice, affirmatively
15 elects a distribution.

16 SECTION 7. AMENDATORY 47 O.S. 2001, Section 2-300, as
17 last amended by Section 10, Chapter 62, O.S.L. 2007 (47 O.S. Supp.
18 2007, Section 2-300), is amended to read as follows:

19 Section 2-300. As used in Section 2-300 et seq. of this title:

20 1. "System" means the Oklahoma Law Enforcement Retirement
21 System;

22 2. "Act" means Section 2-300 et seq. of this title;

23 3. "Board" means the Oklahoma Law Enforcement Retirement Board
24 of the System;

1 4. "Executive Director" means the managing officer of the
2 System employed by the Board;

3 5. "Fund" means the Oklahoma Law Enforcement Retirement Fund;

4 6. a. "Member" means:

5 (1) all commissioned law enforcement officers of the
6 Oklahoma Highway Patrol Division of the
7 Department of Public Safety who have obtained
8 certification from the Council on Law Enforcement
9 Education and Training, and all cadets of a
10 Patrol Academy of the Department of Public
11 Safety,

12 (2) law enforcement officers and criminalists of the
13 Oklahoma State Bureau of Investigation,

14 (3) law enforcement officers of the Oklahoma State
15 Bureau of Narcotics and Dangerous Drugs Control
16 designated to perform duties in the investigation
17 and prevention of crime and the enforcement of
18 the criminal laws of this state,

19 (4) law enforcement officers of the Oklahoma
20 Alcoholic Beverage Laws Enforcement Commission
21 designated to perform duties in the investigation
22 and prevention of crime and the enforcement of
23 the criminal laws of this state,
24

- 1 (5) employees of the Communications Section of the
2 Oklahoma Highway Patrol Division, radio
3 technicians, and tower technicians of the
4 Department of Public Safety, who are employed in
5 any such capacity as of June 30, 2008, and who
6 remain employed on or after July 1, 2008, until a
7 termination of service, or until a termination of
8 service with an election of a vested benefit from
9 the System, or until retirement. Effective July
10 1, 2008, a person employed for the first time as
11 an employee of the Department of Public Safety in
12 the Communications Division as an information
13 systems telecommunication technician of the
14 Department of Public Safety shall not be a member
15 of the System,
- 16 (6) park rangers of the Oklahoma Tourism and
17 Recreation Department and any park manager or
18 park supervisor of the Oklahoma Tourism and
19 Recreation Department who was employed in such a
20 position prior to July 1, 1985, and who elects on
21 or before September 1, 1996, to participate in
22 the System, and
- 23 (7) inspectors of the Board of Pharmacy.
- 24

1 b. Effective July 1, 1987, a member does not include a
2 "leased employee" as defined under Section 414(n) (2) of
3 the Internal Revenue Code of 1986, as amended.
4 Effective July 1, 1999, any individual who agrees with
5 the participating employer that the individual's
6 services are to be performed as a leased employee or
7 an independent contractor shall not be a member
8 regardless of any classification as a common-law
9 employee by the Internal Revenue Service or any other
10 governmental agency, or any court of competent
11 jurisdiction.

12 c. All persons who shall be offered a position of a
13 commissioned law enforcement officer as an employee of
14 one of the agencies described in subparagraph a of
15 this paragraph shall participate in the System upon
16 the person meeting the requisite post-offer-pre-
17 employment physical examination standards which shall
18 be subject to the following requirements:

- 19 (1) all such persons shall be of good moral
20 character, free from deformities, mental or
21 physical conditions, or disease and alcohol or
22 drug addiction which would prohibit the person
23 from performing the duties of a law enforcement
24 officer,

- 1 (2) said physical-medical examination shall pertain
2 to age, sight, hearing, agility and other
3 conditions the requirements of which shall be
4 established by the Board,
- 5 (3) the person shall be required to meet the
6 conditions of this subsection prior to the
7 beginning of actual employment but after an offer
8 of employment has been tendered by a
9 participating employer,
- 10 (4) the Board shall have authority to deny or revoke
11 membership of any person submitting false
12 information in such person's membership
13 application, and
- 14 (5) the Board shall have final authority in
15 determining eligibility for membership in the
16 System, pursuant to the provisions of this
17 subsection;

18 7. "Normal retirement date" means the date at which the member
19 is eligible to receive the unreduced payments of the member's
20 accrued retirement benefit. Such date shall be the first day of the
21 month coinciding with or following the date the member:

- 22 a. completes twenty (20) years of vesting service, or
23 b. attains sixty-two (62) years of age with ten (10)
24 years of vesting service, or

1 c. attains sixty-two (62) years of age, if:

2 (1) the member has been transferred to this System
3 from the Oklahoma Public Employees Retirement
4 System on or after July 1, 1981, and

5 (2) the member would have been vested had the member
6 continued to be a member of the Oklahoma Public
7 Employees Retirement System.

8 With respect to distributions under the System made for calendar
9 years beginning on or after January 1, 2005, the System shall apply
10 the minimum distribution incidental benefit requirements, incidental
11 benefit requirements, and minimum distribution requirements of
12 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
13 in accordance with the final regulations under Section 401(a)(9) of
14 the Internal Revenue Code of 1986, as amended, which were issued in
15 April 2002 and June 2004, notwithstanding any provision of the
16 System to the contrary. With respect to distributions under the
17 System made for calendar years beginning on or after January 1,
18 2001, through December 31, 2004, the System shall apply the minimum
19 distribution requirements and incidental benefit requirements of
20 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
21 in accordance with the regulations under Section 401(a)(9) of the
22 Internal Revenue Code of 1986, as amended, which were proposed in
23 January 2001, notwithstanding any provision of the System to the
24 contrary.

1 Effective July 1, 1989, notwithstanding any other provision
2 contained herein to the contrary, in no event shall commencement of
3 distribution of the accrued retirement benefit of a member be
4 delayed beyond April 1 of the calendar year following the later of:
5 (1) the calendar year in which the member reaches seventy and one-
6 half (70 1/2) years of age; or (2) the actual retirement date of the
7 member. The preceding sentence does not allow deferral of benefit
8 commencement beyond the age of sixty-five (65).

9 A member who was required to join the System effective July 1,
10 1980, because of the transfer of the employing agency from the
11 Oklahoma Public Employees Retirement System to the System, and was
12 not a member of the Oklahoma Public Employees Retirement System on
13 the date of such transfer shall be allowed to receive credit for
14 prior law enforcement service rendered to this state, if the member
15 is not receiving or eligible to receive retirement credit or
16 benefits for such service in any other public retirement system,
17 upon payment to the System of the employee contribution the member
18 would have been subject to had the member been a member of the
19 System at the time, plus five percent (5%) interest. Service credit
20 received pursuant to this paragraph shall be used in determining the
21 member's retirement benefit, and shall be used in determining years
22 of service for retirement or vesting purposes;

23 8. "Actual paid base salary" means the salary received by a
24 member, excluding payment for any accumulated leave or uniform

1 allowance. Salary shall include any amount of nonelective salary
2 reduction under Section 414(h) of the Internal Revenue Code of 1986;

3 9. "Final average salary" means the average of the highest
4 thirty (30) consecutive complete months of actual paid gross salary.
5 Gross salary shall include any amount of elective salary reduction
6 under Section 457 of the Internal Revenue Code of 1986, as amended,
7 and any amount of nonelective salary reduction under Section 414(h)
8 of the Internal Revenue Code of 1986, as amended. Effective July 1,
9 1992, gross salary shall include any amount of elective salary
10 reduction under Section 125 of the Internal Revenue Code of 1986, as
11 amended. Effective July 1, 1998, gross salary shall include any
12 amount of elective salary reduction not includable in the gross
13 income of the member under Section 132(f)(4) of the Internal Revenue
14 Code of 1986, as amended. Effective July 1, 1998, for purposes of
15 determining a member's compensation, any contribution by the member
16 to reduce his or her regular cash remuneration under Section
17 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be
18 treated as if the member did not make such an election. Only salary
19 on which required contributions have been made may be used in
20 computing the final average salary.

21 In addition to other applicable limitations, and notwithstanding
22 any other provision to the contrary, for plan years beginning on or
23 after July 1, 2002, the annual gross salary of each "Noneligible
24 Member" taken into account under the System shall not exceed the

1 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")
2 annual salary limit. The EGTRRA annual salary limit is Two Hundred
3 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for
4 increases in the cost of living in accordance with Section
5 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The
6 annual salary limit in effect for a calendar year applies to any
7 period, not exceeding twelve (12) months, over which salary is
8 determined ("determination period") beginning in such calendar year.
9 If a determination period consists of fewer than twelve (12) months,
10 the EGTRRA salary limit will be multiplied by a fraction, the
11 numerator of which is the number of months in the determination
12 period, and the denominator of which is twelve (12). For purposes
13 of this section, a "Noneligible Member" is any member who first
14 became a member during a plan year commencing on or after July 1,
15 1996.

16 For plan years beginning on or after July 1, 2002, any reference
17 in the System to the annual salary limit under Section 401(a)(17) of
18 the Internal Revenue Code of 1986, as amended, shall mean the EGTRRA
19 salary limit set forth in this provision;

20 10. "Credited service" means the period of service used to
21 determine the amount of benefits payable to a member. Credited
22 service shall consist of the period during which the member
23 participated in the System or the predecessor Plan as an active
24 employee in an eligible membership classification, plus any service

1 prior to the establishment of the predecessor Plan which was
2 credited under the predecessor Plan and for law enforcement officers
3 and criminalists of the Oklahoma State Bureau of Investigation and
4 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
5 who became members of the System on July 1, 1980, any service
6 credited under the Oklahoma Public Employees Retirement System as of
7 June 30, 1980, and for members of the Communications and Lake Patrol
8 Divisions of the Oklahoma Department of Public Safety, who became
9 members of the System on July 1, 1981, any service credited under
10 the predecessor Plan or the Oklahoma Public Employees Retirement
11 System as of June 30, 1981, and for law enforcement officers of the
12 Alcoholic Beverage Laws Enforcement Commission who became members of
13 the System on July 1, 1982, any service credited under the Oklahoma
14 Public Employees Retirement System as of June 30, 1982, and for park
15 rangers of the Oklahoma Tourism and Recreation Department who became
16 members of the System on July 1, 1985, any service credited under
17 the Oklahoma Public Employees Retirement System as of June 30, 1985,
18 and for inspectors of the Oklahoma State Board of Pharmacy who
19 became members of the System on July 1, 1986, any service credited
20 under the Oklahoma Public Employees Retirement System as of June 30,
21 1986, for law enforcement officers of the Oklahoma Capitol Patrol
22 Division of the Department of Public Safety who became members of
23 the System effective July 1, 1993, any service credited under the
24 Oklahoma Public Employees Retirement System as of June 30, 1993, and

1 for all commissioned officers in the Gunsmith/Ammunition Reloader
2 Division of the Department of Public Safety who became members of
3 the System effective July 1, 1994, any service credited under the
4 Oklahoma Public Employees Retirement System as of June 30, 1994, and
5 for the park managers or park supervisors of the Oklahoma Tourism
6 and Recreation Department who were employed in such a position prior
7 to July 1, 1985, and who elect to become members of the System
8 effective September 1, 1996, any service transferred pursuant to
9 subsection C of Section 2-309.6 of this title and any service
10 purchased pursuant to subsection B of Section 2-307.2 of this title.
11 Effective August 5, 1993, an authorized leave of absence shall
12 include a period of absence pursuant to the Family and Medical Leave
13 Act of 1993;

14 11. "Disability" means a physical or mental condition which, in
15 the judgment of the Board, totally and presumably permanently
16 prevents the member from engaging in the usual and customary duties
17 of the occupation of the member and thereafter prevents the member
18 from performing the duties of any occupation or service for which
19 the member is qualified by reason of training, education or
20 experience. A person is not under a disability when capable of
21 performing a service to the employer, regardless of occupation,
22 providing the salary of the employee is not diminished thereby;

23

24

1 12. "Limitation year" means the year used in applying the
2 limitations of Section 415 of the Internal Revenue Code of 1986,
3 which year shall be the calendar year;

4 13. "Line of duty" means any action which a member whose
5 primary function is crime control or reduction or enforcement of the
6 criminal law is obligated or authorized by rule, regulations,
7 condition of employment or service, or law to perform, including
8 those social, ceremonial, or athletic functions to which the member
9 is assigned, or for which the member is compensated, by the agency
10 the member serves;

11 14. "Personal injury" or "injury" means any traumatic injury as
12 well as diseases which are caused by or result from such an injury,
13 but not occupational diseases;

14 15. "Catastrophic nature" means consequences of an injury that
15 permanently prevent an individual from performing any gainful work;

16 16. "Traumatic injury" means a wound or a condition of the body
17 caused by external force, including injuries inflicted by bullets,
18 explosives, sharp instruments, blunt objects or other physical
19 blows, chemicals, electricity, climatic conditions, infectious
20 diseases, radiation, and bacteria, but excluding stress and strain;
21 and

22 17. "Beneficiary" means the individual designated by the member
23 on a beneficiary designation form supplied by the Oklahoma Law
24 Enforcement Retirement System, or if there is no designated

1 beneficiary or if the designated beneficiary predeceases the member,
2 the estate of the member. If the member's spouse is not designated
3 as the sole primary beneficiary, the member's spouse must sign a
4 consent.

5 SECTION 8. AMENDATORY 47 O.S. 2001, Section 2-303.3, is
6 amended to read as follows:

7 Section 2-303.3 A. Except as otherwise provided by this
8 section, any annuity, benefits, fund, property, or rights created by
9 or accruing to any person pursuant to the provisions of Sections 2-
10 300 through 2-313 of this title shall not be subject to execution,
11 garnishment or attachment, and shall be unassignable, except as
12 specifically provided by Sections 2-300 through 2-313 of this title.
13 Notwithstanding the foregoing, effective August 5, 1997, the Board
14 may approve any offset of a member's benefit to pay a judgment or
15 settlement against the member for a crime involving the System or
16 for a breach of the member's fiduciary duty to the System, provided
17 such offset is in accordance with the requirements of Section
18 401(a)(13) of the Internal Revenue Code of 1986, as amended.

19 B. 1. The provisions of subsection A of this section shall not
20 apply to a qualified domestic order as provided pursuant to this
21 subsection.

22 2. The term "qualified domestic order" means an order issued by
23 a district court of this state pursuant to the domestic relation
24 laws of the State of Oklahoma which relates to the provision of

1 marital property rights to a spouse or former spouse of a member or
2 provision of support for a minor child or children and which creates
3 or recognizes the existence of the right of an alternate payee, or
4 assigns to an alternate payee the right, to receive a portion of the
5 benefits payable with respect to a member of the System.

6 3. For purposes of the payment of marital property, to qualify
7 as an alternate payee, a spouse or former spouse must have been
8 married to the related member for a period of not less than thirty
9 (30) continuous months immediately preceding the commencement of the
10 proceedings from which the qualified domestic order issues.

11 4. A qualified domestic order is valid and binding on the Board
12 and the related member only if it meets the requirements of this
13 subsection.

14 5. A qualified domestic order shall clearly specify:

- 15 a. the name and last-known mailing address (if any) of
16 the member and the name and mailing address of the
17 alternate payee covered by the order,
- 18 b. the amount or percentage of the member's benefits to
19 be paid by the System to the alternate payee,
- 20 c. the number of payments or period to which such order
21 applies,
- 22 d. the characterization of the benefit as to marital
23 property rights or child support, and
- 24 e. each plan to which such order applies.

1 6. A qualified domestic order meets the requirements of this
2 subsection only if such order:

3 a. does not require the System to provide any type or
4 form of benefit, or any option not otherwise provided
5 under state law as relates to the System,

6 b. does not require the System to provide increased
7 benefits, and

8 c. does not require the payment of benefits to an
9 alternate payee which are required to be paid to
10 another alternate payee pursuant to another order
11 previously determined to be a qualified domestic order
12 or an order recognized by the System as a valid order
13 prior to the effective date of this act.

14 7. A qualified domestic order shall not require payment of
15 benefits to an alternate payee prior to the actual retirement date
16 of the related member.

17 8. The alternate payee shall have a right to receive benefits
18 payable to a member of the System under the Oklahoma Law Enforcement
19 Deferred Option Plan provided for pursuant to Section 2-305.2 of
20 this title, but only to the extent such benefits have been credited
21 or paid into the member's Oklahoma Law Enforcement Deferred Option
22 Plan account during the term of the marriage.

1 9. The obligation of the System to pay an alternate payee
2 pursuant to a qualified domestic order shall cease upon the death of
3 the related member.

4 ~~9.~~ 10. This subsection shall not be subject to the provisions
5 of the Employee Retirement Income Security Act of 1974 (ERISA), 29
6 U.S.C.A. Section 1001, et seq., as amended from time to time, or
7 rules and regulations promulgated thereunder, and court cases
8 interpreting said act.

9 ~~10.~~ 11. The Oklahoma Law Enforcement Retirement Board shall
10 promulgate such rules as are necessary to implement the provisions
11 of this subsection.

12 ~~11.~~ 12. An alternate payee who has acquired beneficiary rights
13 pursuant to a valid qualified domestic order must fully comply with
14 all provisions of the rules promulgated by the Board pursuant to
15 this subsection in order to continue receiving his or her benefit.

16 SECTION 9. AMENDATORY 47 O.S. 2001, Section 2-305.1A, as
17 last amended by Section 8, Chapter 152, O.S.L. 2007 (47 O.S. Supp.
18 2007, Section 2-305.1A), is amended to read as follows:

19 Section 2-305.1A A. This section applies to distributions made
20 on or after January 1, 1993. Notwithstanding any provision of the
21 System to the contrary that would otherwise limit a Distributee's
22 election hereunder, a Distributee may elect, at the time and in the
23 manner prescribed by the Board, to have any portion of an Eligible
24

1 Rollover Distribution paid directly to an Eligible Retirement Plan
2 specified by the Distributee in a Direct Rollover.

3 B. As used in this section:

4 1. "Eligible Rollover Distribution" means any distribution of
5 all or any portion of the balance to the credit of the Distributee,
6 except that an Eligible Rollover Distribution does not include: any
7 distribution that is one of a series of substantially equal periodic
8 payments (not less frequently than annually) made for the life (or
9 life expectancy) of the Distributee or the joint lives (or life
10 expectancies) of the Distributee and the Distributee's designated
11 beneficiary, or for a specified period of ten (10) years or more;
12 any distribution to the extent such distribution is required under
13 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;
14 and the portion of any distribution that is not includable in gross
15 income; ~~provided, however, that effective.~~ Effective January 1,
16 2002, a portion of a distribution shall not fail to be an Eligible
17 Rollover Distribution merely because the portion consists of after-
18 tax member contributions which are not includable in gross income.
19 However, such portion may be paid only:

20 a. from January 1, 2002, through December 31, 2006, to:

21 (1) an individual retirement account or annuity
22 described in Section 408(a) or (b) of the
23 Internal Revenue Code of 1986, as amended, or
24

1 (2) a qualified trust which is part of a defined
2 contribution plan described in Section 401(a) or
3 403(a) of the Internal Revenue Code of 1986, as
4 amended, and which agrees to separately account
5 for amounts so transferred, including separately
6 accounting for the portion of such distribution
7 which is includable in gross income and the
8 portion of such distribution which is not so
9 includable;

10 b. on or after January 1, 2007, to:

11 (1) an individual retirement account or annuity
12 described in Section 408(a) or (b) of the
13 Internal Revenue Code of 1986, as amended, or
14 (2) a qualified trust described in Section 401(a) or
15 403(a) of the Internal Revenue Code of 1986, as
16 amended, or an annuity contract described in
17 Section 403(b) of the Internal Revenue Code of
18 1986, as amended, and such trust or annuity
19 contract provides for separate accounting for
20 amounts so transferred (and earnings thereon),
21 including separately accounting for the portion
22 of such distribution which is includable in gross
23 income and the portion of such distribution which
24 is not so includable.

1 2. "Eligible Retirement Plan" means an individual retirement
2 account described in Section 408(a) of the Internal Revenue Code of
3 1986, as amended, an individual retirement annuity described in
4 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
5 annuity plan described in Section 403(a) of the Internal Revenue
6 Code of 1986, as amended, or a qualified trust described in Section
7 401(a) of the Internal Revenue Code of 1986, as amended, that
8 accepts the Distributee's Eligible Rollover Distribution. Effective
9 January 1, 2002, an Eligible Retirement Plan shall also mean an
10 annuity contract described in Section 403(b) of the Internal Revenue
11 Code of 1986, as amended, and an eligible plan under Section 457(b)
12 of the Internal Revenue Code of 1986, as amended, which is
13 maintained by a state, political subdivision of a state, or any
14 agency or instrumentality of a state or political subdivision of a
15 state and which agrees to separately account for amounts transferred
16 into such plan from the System. ~~Effective January 1, 2002, the~~
17 ~~definition of Eligible Retirement Plan shall also apply in the case~~
18 ~~of a distribution to a surviving spouse, or to a spouse or former~~
19 ~~spouse who is the alternate payee pursuant to a qualified domestic~~
20 ~~order as defined in subsection B of Section 2-303.3 of this title.~~
21 ~~An Eligible Retirement Plan does not include a Roth IRA under~~
22 ~~Section 408A of the Internal Revenue Code of 1986, as amended.~~

23 3. "Distributee" means an employee or former employee. In
24 addition, effective June 7, 1993, the employee's or former

1 employee's surviving spouse and the employee's or former employee's
2 spouse or former spouse who is the alternate payee under a qualified
3 domestic order, as defined in subsection B of Section 2-303.3 of
4 this title, are Distributees with regard to the interest of the
5 spouse or the former spouse. Effective for distributions after
6 December 31, 2006, a Distributee also includes the member's
7 nonspouse designated beneficiary, pursuant to Section 401(a)(9)(E)
8 of the Internal Revenue Code of 1986, as amended. In the case of a
9 nonspouse beneficiary, the Direct Rollover may be made only to an
10 individual retirement account or annuity (other than an endowment
11 contract) described in Section 408(a) or (b) of the Internal Revenue
12 Code of 1986, as amended, ("IRA"), that is established on behalf of
13 such designated beneficiary and that will be treated as an inherited
14 IRA pursuant to the provisions of Section 402(c)(11) of the Internal
15 Revenue Code of 1986, as amended. Also, in this case, the
16 determination of any required minimum distribution under Section
17 401(a)(9) of the Internal Revenue Code of 1986, as amended, that is
18 ineligible for rollover shall be made in accordance with Notice
19 2007-7, Q&A 17 and 18, 2007-5 Internal Revenue Bulletin 395. The
20 required minimum distribution rules of Section 401(a)(9)(B) (other
21 than clause iv thereof) of the Internal Revenue Code of 1986, as
22 amended, apply to the transferee IRA.

23 4. "Direct Rollover" means a payment by the System to the
24 Eligible Retirement Plan specified by the Distributee or, on or

1 after January 1, 2008, to a Roth IRA under Section 408A of the
2 Internal Revenue Code of 1986, as amended, as specified by the
3 Distributee, assuming the Distributee otherwise meets the Roth IRA
4 requirements.

5 C. At least thirty (30) days before and, effective January 1,
6 2007, not more than one hundred eighty (180) days before the date of
7 distribution, the Distributee must be provided with a notice of
8 rights which satisfies Section 402(f) of the Internal Revenue Code
9 of 1986, as amended, as to rollover options and tax effects. Such
10 distribution may commence less than thirty (30) days after the
11 notice is given, provided that:

12 1. The Board clearly informs the Distributee that the
13 Distributee has a right to a period of at least thirty (30) days
14 after receiving the notice to consider the decision of whether or
15 not to elect a distribution; and

16 2. The Distributee, after receiving the notice, affirmatively
17 elects a distribution.

18 SECTION 10. AMENDATORY 47 O.S. 2001, Section 2-305.4, as
19 last amended by Section 21, Chapter 46, 2nd Extraordinary Session,
20 O.S.L. 2006 (47 O.S. Supp. 2007, Section 2-305.4), is amended to
21 read as follows:

22 Section 2-305.4 A. Notwithstanding any other provision
23 contained herein to the contrary, the benefits payable to a member
24 from the Oklahoma Law Enforcement Retirement System provided by

1 employer contributions (including contributions picked up by the
2 employer under Section 414(h) of the Internal Revenue Code of 1986,
3 as amended), shall be subject to the limitations of Section 415 of
4 the Internal Revenue Code of 1986, as amended, in accordance with
5 the provisions of ~~subsections B and C~~ of this section. The
6 limitations of this section shall apply in limitation years
7 beginning on or after July 1, 2007, except as otherwise provided
8 below.

9 B. Except as provided in ~~paragraphs 3 through 7~~ of this
10 ~~subsection~~ below, effective for limitation years ending after
11 December 31, 2001, any accrued retirement benefit payable to a
12 member as an annual benefit as described below shall not exceed the
13 ~~lesser of:~~

14 ~~1.~~ One Hundred Sixty Thousand Dollars (\$160,000.00), ~~effective~~
15 ~~January 1, 2002,~~ automatically adjusted under Section 415(d) of the
16 Internal Revenue Code of 1986, as amended, for increases in the cost
17 of living, as prescribed by the Secretary of the Treasury or the
18 Secretary's delegate, effective January 1 of each calendar year and
19 applicable to the limitation year ending with or within such
20 calendar year, ~~or~~

21 ~~2.~~ ~~For limitation years beginning prior to January 1, 1995, one~~
22 ~~hundred percent (100%) of the average earnings of the member for the~~
23 ~~three (3) consecutive calendar years, while a member in the System,~~
24 ~~in which the member's earnings were the highest. For purposes of~~

~~this paragraph, earnings for any limitation year shall be the earned income of the member, wages, salaries, fees for professional services, and other amounts received for personal services actually rendered in the course of employment with a participating employer, provided such amounts are actually paid or includable in gross income during such year. Earnings shall exclude the following:~~

- ~~a. contributions by a participating employer to a plan of deferred compensation which are not included in the gross income of the member for the taxable year in which contributed or any distributions from a funded plan of deferred compensation, and~~
- ~~b. other amounts which received special tax benefits, or contributions made by a participating employer, whether or not under a salary reduction agreement, towards the purchase of an annuity described in Section 403(b) of the Internal Revenue Code of 1986, whether or not the amounts are actually excludable from the gross income of the member,~~

~~3. Except as provided in paragraph 5 of this subsection, the limitations specified in paragraphs 1 and 2 of this subsection shall not be applicable with respect to any member whose total annual accrued retirement benefit payable from the System is less than Ten Thousand Dollars (\$10,000.00) and who has not at any time participated in any contribution plan, within the meaning of Section~~

1 ~~415(k) of the Internal Revenue Code of 1986, as amended, maintained~~
2 ~~by a participating employer;.~~ The automatic annual adjustment of
3 the dollar limitation in this subsection under Section 415(d) of the
4 Internal Revenue Code of 1986, as amended, shall apply to a member
5 who has had a separation from employment.

6 1. The member's annual benefit is a benefit that is payable
7 annually in the form of a straight life annuity. Except as provided
8 below, where a benefit is payable in a form other than a straight
9 life annuity, the benefit shall be adjusted to an actuarially
10 equivalent straight life annuity that begins at the same time as
11 such other form of benefit and is payable on the first day of each
12 month, before applying the limitations of this section. For a
13 member who has or will have distributions commencing at more than
14 one annuity starting date, the annual benefit shall be determined as
15 of each such annuity starting date (and shall satisfy the
16 limitations of this section as of each such date), actuarially
17 adjusting for past and future distributions of benefits commencing
18 at the other annuity starting dates. For this purpose, the
19 determination of whether a new starting date has occurred shall be
20 made without regard to Section 1.401(a)-20, Q&A 10(d), and with
21 regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax
22 Regulations.

23 2. No actuarial adjustment to the benefit shall be made for:
24

- 1 a. survivor benefits payable to a surviving spouse under
2 a qualified joint and survivor annuity to the extent
3 such benefits would not be payable if the member's
4 benefit were paid in another form,
- 5 b. benefits that are not directly related to retirement
6 benefits (such as a qualified disability benefit,
7 preretirement incidental death benefits) and
8 postretirement medical benefits, or
- 9 c. the inclusion in the form of a benefit of an automatic
10 benefit increase feature, provided, the form of
11 benefit is not subject to Section 417(e)(3) of the
12 Internal Revenue Code of 1986, as amended, and would
13 otherwise satisfy the limitations of this section, and
14 the System provides that the amount payable under the
15 form of benefit in any limitation year shall not
16 exceed the limits of this section applicable at the
17 annuity starting date, as increased in subsequent
18 years pursuant to Section 415(d) of the Internal
19 Revenue Code of 1986, as amended. For this purpose,
20 an automatic benefit increase feature is included in a
21 form of benefit if the form of benefit provides for
22 automatic, periodic increases to the benefits paid in
23 that form.
- 24

1 3. The determination of the annual benefit shall take into
2 account Social Security supplements described in Section 411(a) (9)
3 of the Internal Revenue Code of 1986, as amended, and benefits
4 transferred from another defined benefit plan, other than transfers
5 of distributable benefits pursuant to Section 1.411(d)-4, Q&A-3(c),
6 of the Income Tax Regulations, but shall disregard benefits
7 attributable to employee contributions or rollover contributions.

8 4. Effective for distributions in plan years beginning after
9 December 31, 2003, the determination of actuarial equivalence of
10 forms of benefit other than a straight life annuity shall be made in
11 accordance with paragraph 5 or paragraph 6 of this subsection.

12 5. Benefit Forms Not Subject to Section 417(e) (3) of the
13 Internal Revenue code of 1986, as amended: The straight life
14 annuity that is actuarially equivalent to the member's form of
15 benefit shall be determined under this paragraph 5 if the form of
16 the member's benefit is either:

17 a. a nondecreasing annuity (other than a straight life
18 annuity) payable for a period of not less than the
19 life of the member (or, in the case of a qualified
20 preretirement survivor annuity, the life of the
21 surviving spouse), or

22 b. an annuity that decreases during the life of the
23 member merely because of:

- 1 (1) the death of the survivor annuitant (but only if
2 the reduction is not below fifty percent (50%) of
3 the benefit payable before the death of the
4 survivor annuitant), or
5 (2) the cessation or reduction of Social Security
6 supplements or qualified disability payments (as
7 defined in Section 401(a)(11) of the Internal
8 Revenue Code of 1986, as amended).

9 c. Limitation Years Beginning Before July 1, 2007. For
10 limitation years beginning before July 1, 2007, the
11 actuarially equivalent straight life annuity is equal
12 to the annual amount of the straight life annuity
13 commencing at the same annuity starting date that has
14 the same actuarial present value as the member's form
15 of benefit computed using whichever of the following
16 produces the greater annual amount:

- 17 (1) the interest rate and the mortality table or
18 other tabular factor, each as set forth in
19 subsection H of Section 2-303.1 of this title for
20 adjusting benefits in the same form, and
21 (2) a five percent (5%) interest rate assumption and
22 the applicable mortality table described in
23 Revenue Ruling 2001-62 for that annuity starting
24 date.

d. Limitation Years Beginning On Or After July 1, 2007.

For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

(1) the annual amount of the straight life annuity, if any, payable to the member under the System commencing at the same annuity starting date as the member's form of benefit, and

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five percent (5%) interest rate assumption and the applicable mortality table described in Revenue Ruling 2001-62 for that annuity starting date.

6. Benefit Forms Subject to Section 417(e)(3) of the Internal Revenue Code of 1986, as amended: The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this paragraph 6 if the form of the member's benefit is other than a benefit form described in paragraph 5 of this subsection. In this case, the actuarially equivalent straight life annuity shall be determined as follows:

a. Annuity Starting Date in Plan Years Beginning After 2005. If the annuity starting date of the member's

1 form of benefit is in a plan year beginning after
2 2005, the actuarially equivalent straight life annuity
3 is equal to the greatest of:

4 (1) the annual amount of the straight life annuity
5 commencing at the same annuity starting date that
6 has the same actuarial present value as the
7 member's form of benefit, computed using the
8 interest rate and the mortality table or other
9 tabular factor, each as set forth in subsection H
10 of Section 2-303.1 of this title for adjusting
11 benefits in the same form,

12 (2) the annual amount of the straight life annuity
13 commencing at the same annuity starting date that
14 has the same actuarial present value as the
15 member's form of benefit, computed using a five
16 and one-half percent (5.5%) interest rate
17 assumption and the applicable mortality table
18 described in Revenue Ruling 2001-62, and

19 (3) the annual amount of the straight life annuity
20 commencing at the same annuity starting date that
21 has the same actuarial present value as the
22 member's form of benefit, computed using:

23 (a) the rate of interest on thirty-year Treasury
24 securities as specified by the Commissioner

1 for the lookback month for the stability
2 period specified below. The lookback month
3 applicable to the stability period is the
4 fourth calendar month preceding the first
5 day of the stability period, as specified
6 below. The stability period is the
7 successive period of one (1) plan year which
8 contains the annuity starting date for the
9 distribution and for which the applicable
10 interest rate remains constant, and
11 (b) the applicable mortality table described in
12 Revenue Ruling 2001-62,
13 divided by one and five one-hundredths (1.05).

14 b. Annuity Starting Date in Plan Years Beginning in 2004
15 or 2005.

16 (1) If the annuity starting date of the member's form
17 of benefit is in a plan year beginning in 2004 or
18 2005, the actuarially equivalent straight life
19 annuity is equal to the annual amount of the
20 straight life annuity commencing at the same
21 annuity starting date that has the same actuarial
22 present value as the member's form of benefit,
23 computed using whichever of the following
24 produces the greater annual amount:

1 (a) the interest rate and the mortality table or
2 other tabular factor, each as set forth in
3 subsection H of Section 2-303.1 of this
4 title for adjusting benefits in the same
5 form, and

6 (b) a five and one-half percent (5.5%) interest
7 rate assumption and the applicable mortality
8 table described in Revenue Ruling 2001-62.

9 (2) If the annuity starting date of the member's
10 benefit is on or after the first day of the first
11 plan year beginning in 2004 and before December
12 31, 2004, the application of this subparagraph
13 shall not cause the amount payable under the
14 member's form of benefit to be less than the
15 benefit calculated under the System, taking into
16 account the limitations of this section, except
17 that the actuarially equivalent straight life
18 annuity is equal to the annual amount of the
19 straight life annuity commencing at the same
20 annuity starting date that has the same actuarial
21 present value as the member's form of benefit,
22 computed using whichever of the following
23 produces the greatest annual amount:

1 (a) the interest rate and mortality table or
 2 other tabular factor, each as set forth in
 3 subsection H of Section 2-203.1 of this
 4 title for adjusting benefits in the same
 5 form,

6 (b) i. the rate of interest on thirty-year
 7 Treasury securities as specified by the
 8 Commissioner for the lookback month for
 9 the stability period specified below.

10 The lookback month applicable to the
 11 stability period is the fourth calendar
 12 month preceding the first day of the
 13 stability period, as specified below.

14 The stability period is the successive
 15 period of one (1) plan year which
 16 contains the annuity starting date for
 17 the distribution and for which the
 18 applicable interest rate remains
 19 constant, and

20 ii. the applicable mortality table
 21 described in Revenue Ruling 2001-62,
 22 and

23 (c) i. the rate of interest on thirty-year
 24 Treasury securities as specified by the

1 Commissioner for the lookback month for
2 the stability period specified below.

3 The lookback month applicable to the
4 stability period is the fourth calendar
5 month preceding the first day of the
6 stability period, as specified below.

7 The stability period is the successive
8 period of one (1) plan year which
9 contains the annuity starting date for
10 the distribution and for which the
11 applicable interest rate remains
12 constant (as in effect on the last day
13 of the last plan year beginning before
14 January 1, 2004, under provisions of
15 the System then adopted and in effect),
16 and

17 ii. the applicable mortality table
18 described in Revenue Ruling 2001-62.

19 C. If a member has less than ten (10) years of participation in
20 the System and all predecessor pension and retirement systems, the
21 dollar limitation otherwise applicable under ~~paragraph 1 of this~~
22 subsection B of this section shall be ~~reduced by multiplying such~~
23 ~~limitation~~ multiplied by a fraction, the numerator of which is the
24 number of the years of participation in the System of the member,

1 but never less than one (1), and the denominator of which is ten
2 (10). ~~This paragraph, to the extent required by the Secretary of~~
3 ~~the Treasury, shall be applied separately to each change in benefit~~
4 ~~structure hereunder;~~

5 ~~5. Effective for limitation years beginning on or after January~~
6 ~~1, 1995, if a member has been credited with less than ten (10) years~~
7 ~~of credited service, the dollar amount otherwise applicable under~~
8 ~~paragraph 3 of this subsection shall be reduced by multiplying such~~
9 ~~dollar amount by a fraction, the numerator of which is the number of~~
10 ~~the years of credited service of the member, but never less than one~~
11 ~~(1), and the denominator of which is ten (10);~~

12 ~~6. The limitations specified in this section shall apply to a~~
13 ~~straight life annuity with no ancillary benefits and to an annuity~~
14 ~~that constitutes a qualified joint and survivor annuity. If payment~~
15 ~~is in a different form, the amount thereof shall be adjusted to be~~
16 ~~the actuarial equivalent of a single life annuity and the~~
17 ~~limitations shall be applied to such adjusted amount. Such~~
18 ~~adjustment shall be based on the mortality tables and interest rates~~
19 ~~described in divisions (1), (2) and (3) of subparagraph a and~~
20 ~~subparagraph c of this paragraph.~~

21 a. ~~If payment begins before the member reaches sixty-two~~
22 ~~(62) years of age, the limitation in paragraph 1 of~~
23 ~~this subsection shall be reduced on an actuarially~~
24 ~~equivalent basis; provided however, prior to January~~

1 ~~1, 2002, if such payment begins after the member~~
2 ~~reaches fifty five (55) years of age, the reduced~~
3 ~~limit shall not be less than Seventy five Thousand~~
4 ~~Dollars (\$75,000.00) and, if payment begins prior to~~
5 ~~the member reaching fifty five (55) years of age, the~~
6 ~~reduced limit shall not be less than the actuarial~~
7 ~~equivalent of the Seventy five Thousand Dollar~~
8 ~~(\$75,000.00) limit for age fifty five (55); provided~~
9 ~~further, that in no event shall such amount be reduced~~
10 ~~below Fifty Thousand Dollars (\$50,000.00), adjusted~~
11 ~~for increases in the cost of living, as prescribed by~~
12 ~~the Secretary of Treasury, or the Secretary's~~
13 ~~delegate.~~

- 14 ~~(1) For limitation years beginning before January 1,~~
15 ~~1999, the interest rate to be used to determine~~
16 ~~such actuarial equivalent amount in this~~
17 ~~subparagraph shall be the rate specified in the~~
18 ~~actuarial tables adopted by the Board as~~
19 ~~described in subparagraph c of this paragraph,~~
20 ~~however, the interest rate used in determining an~~
21 ~~actuarially equivalent pre-age sixty two (62)~~
22 ~~amount shall not be less than five percent (5%).~~
- 23 ~~(2) Effective for limitation years beginning on or~~
24 ~~after January 1, 1999, the actuarial equivalent~~

~~adjustments in this subparagraph shall be determined using the prevailing Commissioner's standard table (described in Section 807(d)(5)(A) of the Internal Revenue Code of 1986, as amended), without regard to any other subparagraph of Section 807(d)(5), used to determine reserves for group annuity contracts issued on the date as of which the payment is being determined. Notwithstanding any other System provisions to the contrary, for distributions with annuity starting dates on or after December 31, 2002, the applicable mortality table used for purposes of adjusting any benefit or limitation under Sections 415(b)(2)(B), (C) or (D) of the Internal Revenue Code of 1986, as amended, is the table described in Rev. Rule. 2001-62. The interest rate shall be five percent (5%).~~

~~(3) For~~

D. Adjustment of Dollar Limitation for Benefit Commencement

Before Sixty-two (62) Years of Age or After Sixty-five (65) Years of Age: Effective for benefits commencing in limitation years ending after December 31, 2001, the dollar limitation under subsection B of this section shall be adjusted if the annuity starting date of the

1 member's benefit is before sixty-two (62) years of age or after
2 sixty-five (65) years of age. If the annuity starting date is
3 before sixty-two (62) years of age, the dollar limitation under
4 subsection B of this section shall be adjusted under paragraph 1 of
5 this subsection, as modified by paragraph 3 of this subsection, but
6 subject to paragraph 4 of this subsection. If the annuity starting
7 date is after sixty-five (65) years of age, the dollar limitation
8 under subsection B of this section shall be adjusted under paragraph
9 2 of this subsection, as modified by paragraph 3 of this subsection.

10 1. Adjustment of Defined Benefit Dollar Limitation for Benefit
11 Commencement Before Sixty-two (62) Years of Age:

- 12 a. Limitation Years Beginning Before July 1, 2007. If
13 the annuity starting date for the member's benefit is
14 prior to sixty-two (62) years of age and occurs in a
15 limitation year beginning before July 1, 2007, the
16 dollar limitation for the member's annuity starting
17 date is the annual amount of a benefit payable in the
18 form of a straight life annuity commencing at the
19 member's annuity starting date that is the actuarial
20 equivalent of the dollar limitation under subsection B
21 of this section (adjusted under subsection C of this
22 section for years of participation less than ten (10),
23 if required) with actuarial equivalence computed using

1 whichever of the following produces the smaller annual
2 amount:

3 (1) the interest rate and the mortality table or
4 other tabular factor, each as set forth in
5 subsection H of Section 2-303.1 of this title, or

6 (2) a five percent (5%) interest rate assumption and
7 the applicable mortality table as described in
8 Revenue Ruling 2001-62.

9 b. Limitation Years Beginning On or After July 1, 2007.

10 (1) System Does Not Have Immediately Commencing
11 Straight Life Annuity Payable at Both Sixty-two
12 (62) Years of Age and the Age of Benefit
13 Commencement. If the annuity starting date for
14 the member's benefit is prior to sixty-two (62)
15 years of age and occurs in a limitation year
16 beginning on or after July 1, 2007, and the
17 System does not have an immediately commencing
18 straight life annuity payable at both sixty-two
19 (62) years of age and the age of benefit
20 commencement, the dollar limitation for the
21 member's annuity starting date is the annual
22 amount of a benefit payable in the form of a
23 straight life annuity commencing at the member's
24 annuity starting date that is the actuarial

1 equivalent of the dollar limitation under
2 subsection B of this section (adjusted under
3 subsection C of this section for years of
4 participation less than ten (10), if required)
5 with actuarial equivalence computed using a five
6 percent (5%) interest rate assumption and the
7 applicable mortality table for the annuity
8 starting date as described in Revenue Ruling
9 2001-62 (and expressing the member's age based on
10 completed calendar months as of the annuity
11 starting date).

12 (2) System Has Immediately Commencing Straight Life
13 Annuity Payable at Both Sixty-two (62) Years of
14 Age and the Age of Benefit Commencement. If the
15 annuity starting date for the member's benefit is
16 prior to sixty-two (62) years of age and occurs
17 in a limitation year beginning on or after July
18 1, 2007, and the System has an immediately
19 commencing straight life annuity payable at both
20 sixty-two (62) years of age and the age of
21 benefit commencement, the dollar limitation for
22 the member's annuity starting date is the lesser
23 of the limitation determined under division (1)
24 of subparagraph b of this paragraph and the

1 dollar limitation under subsection B of this
2 section (adjusted under subsection C of this
3 section for years of participation less than ten
4 (10), if required) multiplied by the ratio of the
5 annual amount of the immediately commencing
6 straight life annuity under the System at the
7 member's annuity starting date to the annual
8 amount of the immediately commencing straight
9 life annuity under the System at sixty-two (62)
10 years of age, both determined without applying
11 the limitation of this section.

12 2. Adjustment of Defined Benefit Dollar Limitation for Benefit
13 Commencement After Sixty-five (65) Years of Age:

14 a. Limitation Years Beginning Before July 1, 2007. If
15 the annuity starting date for the member's benefit is
16 after sixty-five (65) years of age and occurs in a
17 limitation year beginning before July 1, 2007, the
18 dollar limitation for the member's annuity starting
19 date is the annual amount of a benefit payable in the
20 form of a straight life annuity commencing at the
21 member's annuity starting date that is the actuarial
22 equivalent of the dollar limitation under subsection B
23 of this section (adjusted under subsection C of this
24 section for years of participation less than ten (10),

1 if required) with actuarial equivalence computed using
2 whichever of the following produces the smaller annual
3 amount:

- 4 (1) the interest rate and the mortality table or
5 other tabular factor, each as set forth in
6 subsection H of Section 2-303.1 of this title, or
7 (2) a five percent (5%) interest rate assumption and
8 the applicable mortality table as described in
9 Revenue Ruling 2001-62.

10 b. Limitation Years Beginning On or After July 1, 2007.

- 11 (1) System Does Not Have Immediately Commencing
12 Straight Life Annuity Payable at Both Sixty-five
13 (65) Years of Age and the Age of Benefit
14 Commencement. If the annuity starting date for
15 the member's benefit is after sixty-five (65)
16 years of age and occurs in a limitation year
17 beginning on or after July 1, 2007, and the
18 System does not have an immediately commencing
19 straight life annuity payable at both sixty-five
20 (65) years of age and the age of benefit
21 commencement, the dollar limitation at the
22 member's annuity starting date is the annual
23 amount of a benefit payable in the form of a
24 straight life annuity commencing at the member's

1 annuity starting date that is the actuarial
2 equivalent of the dollar limitation under
3 subsection B of this section (adjusted under
4 subsection C of this section for years of
5 participation less than ten (10), if required)
6 with actuarial equivalence computed using a five
7 percent (5%) interest rate assumption and the
8 applicable mortality table for the annuity
9 starting date as described in Revenue Ruling
10 2001-62 (and expressing the member's age based on
11 completed calendar months as of the annuity
12 starting date).

13 (2) System Has Immediately Commencing Straight Life
14 Annuity Payable at Both Sixty-five (65) Years of
15 Age and Age of Benefit Commencement. If the
16 annuity starting date for the member's benefit is
17 after sixty-five (65) years of age and occurs in
18 a limitation year beginning on or after July 1,
19 2007, and the System has an immediately
20 commencing straight life annuity payable at both
21 sixty-five (65) years of age and the age of
22 benefit commencement, the dollar limitation at
23 the member's annuity starting date is the lesser
24 of the limitation determined under division (1)

1 of subparagraph b of this paragraph and the
2 dollar limitation under subsection B of this
3 section (adjusted under subsection C of this
4 section for years of participation less than ten
5 (10), if required) multiplied by the ratio of the
6 annual amount of the adjusted immediately
7 commencing straight life annuity under the System
8 at the member's annuity starting date to the
9 annual amount of the adjusted immediately
10 commencing straight life annuity under the System
11 at sixty-five (65) years of age, both determined
12 without applying the limitations of this section.
13 For this purpose, the adjusted immediately
14 commencing straight life annuity under the System
15 at the member's annuity starting date is the
16 annual amount of such annuity payable to the
17 member, computed disregarding the member's
18 accruals after sixty-five (65) years of age but
19 including actuarial adjustments even if those
20 actuarial adjustments are used to offset
21 accruals; and the adjusted immediately commencing
22 straight life annuity under the System at sixty-
23 five (65) years of age is the annual amount of
24 such annuity that would be payable under the

1 System to a hypothetical member who is sixty-five
2 (65) years of age and has the same accrued
3 benefit as the member.

4 3. Notwithstanding the other requirements of this subsection,
5 no adjustment shall be made to the dollar limitation under
6 subsection B of this section to reflect the probability of a
7 member's death between the annuity starting date and sixty-two (62)
8 years of age, or between sixty-five (65) years of age and the
9 annuity starting date, as applicable, if benefits are not forfeited
10 upon the death of the member prior to the annuity starting date. To
11 the extent benefits are forfeited upon death before the annuity
12 starting date, such an adjustment shall be made. For this purpose,
13 no forfeiture shall be treated as occurring upon the member's death
14 if the System does not charge members for providing a qualified
15 preretirement survivor annuity, as defined in Section 417(c) of the
16 Internal Revenue code of 1986, as amended, upon the member's death.

17 4. Notwithstanding any other provision to the contrary, for
18 limitation years beginning on or after January 1, 1997, if payment
19 begins before the member reached age sixty-two (62) years of age,
20 the reductions in the limitations in this ~~subparagraph~~ subsection
21 shall not apply to a member who is a "qualified participant" as
22 defined in Section 415(b) (2) (H) of the Internal Revenue Code of
23 1986, as amended.

1 ~~b. If payment begins after the member reaches sixty five~~
2 ~~(65) years of age, the limitation in paragraph 1 of~~
3 ~~this subsection shall be the actuarial equivalent of~~
4 ~~such amount otherwise applicable at the member~~
5 ~~reaching sixty five (65) years of age.~~

6 ~~(1) For limitation years beginning before January 1,~~
7 ~~1999, the interest rate to be used to determine~~
8 ~~such actuarial equivalent amount in this~~
9 ~~subparagraph shall be the rate specified in the~~
10 ~~actuarial tables adopted by the Board as~~
11 ~~described in subparagraph c of this paragraph,~~
12 ~~however, the interest rate used in determining an~~
13 ~~actuarially equivalent post age sixty five (65)~~
14 ~~amount shall not be greater than five percent~~
15 ~~(5%).~~

16 ~~(2) Effective for limitation years beginning on or~~
17 ~~after January 1, 1999, the actuarial equivalent~~
18 ~~adjustments in this subparagraph shall use the~~
19 ~~mortality and interest rate basis provided in~~
20 ~~division (2) of subparagraph a of this paragraph.~~

21 ~~c. The actuarial tables adopted by the Board for~~
22 ~~limitation years beginning before January 1, 1999, for~~
23 ~~purposes of adjusting any benefit under Sections~~
24 ~~415(b)(2)(B), (C) or (D) shall be based on an interest~~

1 ~~rate of seven percent (7%) and the 1983 Group Annuity~~
2 ~~Mortality Table.~~

3 7. E. Minimum Benefit Permitted: Notwithstanding anything else
4 in this section to the contrary, the benefit otherwise accrued or
5 payable to a member under this System shall be deemed not to exceed
6 the maximum permissible benefit if:

7 1. The retirement benefits payable for a limitation year under
8 any form of benefit with respect to such member under this System
9 and under all other defined benefit plans (without regard to whether
10 a plan has been terminated) ever maintained by a participating
11 employer do not exceed Ten Thousand Dollars (\$10,000.00) multiplied
12 by a fraction:

13 a. the numerator of which is the member's number of
14 credited years (or part thereof, but not less than one
15 (1) year) of service, not to exceed ten (10), with the
16 participating employer, and

17 b. the denominator of which is ten (10), and

18 2. The participating employer (or a predecessor employer) has
19 not at any time maintained a defined contribution plan in which the
20 member participated (for this purpose, mandatory employee
21 contributions under a defined benefit plan, individual medical
22 accounts under section 401(h) of the Internal Revenue Code of 1986,
23 as amended, and accounts for postretirement medical benefits
24 established under Section 419A(d) (1) of the Internal Revenue Code of

1 1986, as amended, are not considered a separate defined contribution
2 plan).

3 F. In no event shall the maximum annual accrued retirement
4 benefit of a member allowable under this section be less than the
5 annual amount of such accrued retirement benefit, including early
6 pension and qualified joint and survivor annuity amounts, duly
7 accrued by the member as of the last day of the limitation year
8 beginning in 1982, or as of the last day of the limitation year
9 beginning in 1986, whichever is greater, disregarding any plan
10 changes or cost-of-living adjustments occurring after July 1, 1982,
11 as to the 1982 accrued amount, and May 5, 1986, as to the 1986
12 accrued amount.

13 ~~§.~~ G. Effective for years beginning after December 31, 1997, if
14 a member purchases service under this title, which qualifies as
15 "permissive service credit" pursuant to Section 415(n) of the
16 Internal Revenue Code of 1986, as amended, the limitations of
17 Section 415 of the Internal Revenue Code of 1986, as amended, may be
18 met by either:

19 ~~a.~~ ~~treating~~

20 1. Treating the accrued benefit derived from such contributions
21 as an annual benefit under subsection B of this section, or

22 ~~b.~~ ~~treating~~

23

24

1 2. Treating all such contributions as annual additions for
2 purposes of Section 415(c) of the Internal Revenue Code of 1986, as
3 amended.

4 ~~9.~~ H. Effective for years beginning after December 31, 1997, if
5 a member repays to the System any amounts received because of the
6 member's prior termination pursuant to paragraph 3 of subsection (b)
7 of Section 2-307 of this title, such repayment shall not be taken
8 into account for purposes of Section 415 of the Internal Revenue
9 Code of 1986, as amended, pursuant to Section 415(k)(3) of the
10 Internal Revenue Code of 1986, as amended.

11 I. For limitation years beginning on or after January 1, 1995,
12 ~~paragraphs 4, 5 and 6 of this subsection C of this section,~~
13 paragraph 1 of subsection D of this section, and the proration
14 provided under subparagraphs a and b of paragraph 1 of subsection E
15 of this section, shall not apply to a benefit paid under the System
16 as a result of the member becoming disabled by reason of personal
17 injuries or sickness, or amounts received by the beneficiaries,
18 survivors or estate of the member as the result of the death of the
19 member.

20 ~~€.~~ J. For distributions made in limitation years beginning on
21 or after January 1, 2000, the combined limit of repealed Section
22 415(e) of the Internal Revenue Code of 1986, as amended, shall not
23 apply.

1 ~~D.~~ K. The Board is hereby authorized to revoke the special
2 election previously made under Internal Revenue Code Section
3 415(b)(10).

4 SECTION 11. AMENDATORY 47 O.S. 2001, Section 2-307, as
5 last amended by Section 22, Chapter 46, 2nd Extraordinary Session,
6 O.S.L. 2006 (47 O.S. Supp. 2007, Section 2-307), is amended to read
7 as follows:

8 Section 2-307. (a) In the event a member of the System obtains
9 a leave of absence, of not to exceed ninety (90) days at any one
10 time, because of injury or illness or for any personal reason other
11 than the acceptance of other employment, the member's membership in
12 the System shall not terminate and the period of such leave shall be
13 counted toward retirement for length of service if, during such
14 leave of absence or at the end thereof, the member shall pay to the
15 Fund an amount equal to the contributions which would have been
16 deducted from the member's salary during such period if such leave
17 of absence had not been obtained, but if such contributions are not
18 paid during such leave or made up within thirty (30) days after the
19 end of such leave, or if such leave of absence extends for more than
20 ninety (90) days at any one time, the period of such leave shall not
21 be counted toward length of service for retirement nor in computing
22 the amount of any pension or any retirement pay or any other
23 benefits hereunder.

1 (b) In the event a member of the System obtains a leave of
2 absence for the purpose of accepting other employment, or if a
3 member resigns and during such resignation accepts other employment,
4 the member's membership in the System shall terminate as of the date
5 of the beginning of such leave. Provided, that if the membership of
6 a member of the System shall have been terminated either by such
7 leave of absence or by termination of employment, and such former
8 member is reemployed, the Board, upon application therefor made in
9 the same manner as an original application for membership in the
10 System, may reinstate such membership. Such reinstated member shall
11 be allowed full credit toward retirement for all service credit
12 accrued up to the time of termination of membership if, but only if:

13 1. Such application for reinstatement is made within three (3)
14 years from the date of such termination of such membership; and

15 2. Such reinstated member remains a member of the System for a
16 period of five (5) consecutive years after reinstatement of
17 membership; and

18 3. Such reinstated member reimburses the Fund, at the time
19 application for reinstatement is made, with the amount of any
20 portion of the membership contribution which has been refunded to
21 the member under the provisions of Section 2-308 of this title; and

22 4. A lump-sum payment for repayment of any amount received
23 because of a member's prior termination may be repaid by:

24 a. a cash lump-sum payment,

- 1 b. a trustee-to-trustee transfer from a Section 403(b)
2 annuity or custodial account, an eligible deferred
3 compensation plan described in Code Section 457(b)
4 which is maintained by an eligible employer described
5 in Code Section 457(e)(1)(A), and/or a Code Section
6 401(a) qualified plan,
- 7 c. a direct rollover of tax-deferred funds from a Code
8 Section 403(b) annuity or custodial account, an
9 eligible deferred compensation plan described in Code
10 Section 457(b) which is maintained by an eligible
11 employer described in Code Section 457(e)(1)(A), a
12 Code Section 401(a) qualified plan, and/or a Code
13 Section 408(a) or 408(b) traditional or conduit
14 Individual Retirement Account or Annuity (IRA). Roth
15 IRAs, Coverdell Education Savings Accounts and after-
16 tax contributions shall not be used to purchase such
17 service credit, or
- 18 d. any combination of the above methods of payment.

19 The provisions of this subsection shall not apply to absences
20 caused by such military service as may be considered as service for
21 retirement for length of service under the provisions of subsection
22 (c) of this section.

23 (c) In determining the eligibility of a member for retirement
24 based upon length of service, any service in the Armed Forces of the

1 United States or any component thereof between the 16th day of
2 September, 1940, and the 30th day of June, 1954, and any service in
3 the Armed Forces of the United States or any component thereof upon
4 call of the President of the United States or of the Governor of the
5 State of Oklahoma, together with such prior service, as would have
6 been otherwise considered as service for retirement for length of
7 service, shall be considered as service for length of service,
8 provided that the member returns and files application for
9 reinstatement as a member of the System within ninety (90) days
10 after the member's release, or opportunity for release, from such
11 Armed Forces or component thereof. The member's employing agency
12 that is making contributions to the System on behalf of the member
13 shall continue payment of contributions into the pension fund, to
14 the same force and effect as though the member was in the actual
15 employment of such agency at the same salary for a period not to
16 exceed five (5) years. If such member shall have been refunded any
17 portion of the membership contributions as provided in Section 2-308
18 of this title, the member shall be required to reimburse the Fund
19 with the same amount at the time of the member's application for
20 reinstatement in the System, before the reinstated member is given
21 credit for accrued prior service. Provided, that in no event shall
22 a member of the System who has entered such Armed Forces or
23 component thereof prior to retirement be or become eligible for
24 retirement for length of service unless the member shall thereafter

1 have been reinstated as a member of the System as provided for
2 herein, and thereafter remained a member for at least one (1) year
3 after such reinstatement.

4 (d) Time spent on involuntary furlough by members pursuant to
5 the rules of the Office of Personnel Management shall be credited.

6 (e) Notwithstanding any provisions herein to the contrary,
7 contributions, benefits and service credit with respect to qualified
8 military service shall be provided in accordance with Section 414(u)
9 of the Internal Revenue Code of 1986, as amended, which is in
10 accordance with the Uniformed Service Employment and Reemployment
11 Rights Act of 1994, as amended (USERRA). The employer's
12 contributions to the System for a member covered by USERRA are due
13 when such a member makes up his or her contributions that were
14 missed due to his or her qualified military service.

15 SECTION 12. AMENDATORY 47 O.S. 2001, Section 2-307.2, as
16 amended by Section 24, Chapter 46, 2nd Extraordinary Session, O.S.L.
17 2006 (47 O.S. Supp. 2007, Section 2-307.2), is amended to read as
18 follows:

19 Section 2-307.2 A. The total service credit of a member who
20 retires, elects a Deferred Option Plan or terminates employment and
21 elects a vested benefit shall include not to exceed one hundred
22 thirty (130) days of unused sick leave accumulated while a member of
23 the System. Effective July 1, 2008, a member who retires, elects a
24 Deferred Option Plan or terminates employment and elects a vested

1 benefit shall include not to exceed two hundred forty (240) days of
2 unused sick leave accumulated while a member of the System. Such
3 credit shall be added in terms of whole months. Twenty (20) days of
4 unused sick leave shall equal one (1) month for purposes of service
5 credit. If unused sick leave entitles a member to an additional
6 year or fraction thereof of service credit, the member's employer
7 shall reimburse the System for the cost of funding the additional
8 reserve by paying the amount determined by the Board pursuant to
9 Section 25 of this act. Each employer shall provide the System with
10 adequate and timely information necessary to determine additional
11 benefits and its cost under this section. This section shall apply
12 to members retiring or vesting on or after July 1, 1985, and shall
13 not be retroactive. The amount of accrued sick leave available for
14 determination of a member's monthly benefit for purposes of the
15 deferred option election shall be limited to the accrued sick leave
16 available as of the effective date of the deferred option election,
17 but not to exceed two hundred forty (240) days. The member's
18 monthly benefit determined as of the effective date of the deferred
19 option election shall not be adjusted for additional accrued sick
20 leave earned by the member after the deferred option election.

21 B. Whenever any member is unable to perform the member's duties
22 because of sickness or temporary disability caused or sustained
23 while in the discharge of the member's duty as a member, is
24 receiving a temporary total disability benefit under Section 1 et

1 seq. of Title 85 of the Oklahoma Statutes, and does not purchase
2 service credit as described below, such member shall only receive
3 prorated service credit based on the contributions made by the
4 member and the member's employer while the member is receiving a
5 temporary total disability benefit under Section 1 et seq. of Title
6 85 of the Oklahoma Statutes. Whenever any member is unable to
7 perform the member's duties because of sickness or temporary
8 disability caused or sustained while in the discharge of the
9 member's duty as a member and is receiving a temporary disability
10 benefit under Section 1 et seq. of Title 85 of the Oklahoma
11 Statutes, such member shall have the option to purchase service
12 credit for the time related to such leave of absence for such
13 sickness or temporary disability.

14 1. The payment for such purchase must be completed no later
15 than three (3) years from the date the member commenced receipt of a
16 temporary total disability benefit.

17 2. The purchase price shall be:

18 a. the actual paid base salary that the member was
19 entitled to immediately prior to the member's sickness
20 or temporary disability minus any vacation or sick
21 leave payments received by the member during such
22 sickness or temporary disability, multiplied by,

23 b. the following percent:
24

- 1 (1) eighteen percent (18%) for members who are
2 suspended without pay, or
3 (2) eight percent (8%) for members who are not
4 suspended without pay.

5 If such member has not been suspended without pay, the employer
6 shall contribute, within three (3) months of the completion of the
7 member's purchase of service credit, ten percent (10%) of the actual
8 paid base salary that the member was entitled to immediately prior
9 to the member's sickness or temporary disability minus any vacation
10 or sick leave payments received by the member during such sickness
11 or temporary disability.

12 3. The member may purchase such service credit through:

- 13 a. a cash lump-sum payment,
14 b. a trustee-to-trustee transfer from a Code Section
15 403(b) annuity or custodial account, an eligible
16 deferred compensation plan described in Code Section
17 457(b) which is maintained by an eligible employer
18 described in Code Section 457(e)(1)(A), and/or a Code
19 Section 401(a) qualified plan,
20 c. a direct rollover of tax-deferred funds from a Code
21 Section 403(b) annuity or custodial account, an
22 eligible deferred compensation plan described in Code
23 Section 457(b) which is maintained by an eligible
24 employer described in Code Section 457(e)(1)(A), a

1 Code Section 401(a) qualified plan, and/or a Code
2 Section 408(a) or 408(b) traditional or conduit
3 Individual Retirement Account or Annuity (IRA). Roth
4 IRAs, Coverdell Education Savings Accounts and after-
5 tax contributions shall not be used to purchase such
6 service credit, or

7 d. any combination of the above methods of payment.

8 SECTION 13. AMENDATORY 47 O.S. 2001, Section 2-309.8, is
9 amended to read as follows:

10 Section 2-309.8 A. Any state employee who is employed in a
11 commissioned officer position of the Oklahoma Highway Patrol
12 Division, ~~including the Capitol Patrol Section and the Lake Patrol~~
13 ~~Section of the Department of Public Safety,~~ the Oklahoma State
14 Bureau of Investigation, the Oklahoma Bureau of Narcotics and
15 Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement
16 Commission, a Parks Ranger of the Tourism and Recreation Department,
17 and a Pharmacy Inspector of the Pharmacy Board shall be eligible for
18 service credit for employment prior to July 1, 1993, if the employee
19 was in a commissioned officer position in the former Oklahoma
20 Capitol Patrol Division, the former Mansion Security, and the former
21 Training Center Security of the Department of Public Safety and the
22 employee was a full-time, active employee eligible for all state
23 employee benefits.

1 B. An eligible member of the System shall receive credit for
2 all prior service as provided in subsection A of this section,
3 provided the member is not receiving or eligible to receive
4 retirement credit or benefits for such service in any other public
5 retirement system. Service credit received pursuant to this section
6 shall be used in determining the years of service for retirement and
7 vesting purposes.

8 C. To receive credit for such service, an eligible member, as
9 provided in this section, who became a member of the System prior to
10 July 1, 1993, shall make application to the Board in writing for
11 such service prior to July 1, 2002.

12 SECTION 14. This act shall become effective July 1, 2008.

13 SECTION 15. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval."

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1 Passed the House of Representatives the 24th day of April, 2008.

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4 Presiding Officer of the House of
Representatives
5

6 Passed the Senate the ____ day of _____, 2008.

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9 Presiding Officer of the Senate
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