

1 ENGROSSED SENATE
2 BILL NO. 2158

By: Barrington of the Senate
and
Joyner of the House

3
4
5
6 [cities and towns - limitations on benefits to
7 federal law - effective date -
8 emergency]
9

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

11 SECTION 1. AMENDATORY 11 O.S. 2001, Section 49-106.1, as
12 last amended by Section 2, Chapter 356, O.S.L. 2007 (11 O.S. Supp.
13 2007, Section 49-106.1), is amended to read as follows:

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

22 B. For purposes of this section, creditable service shall
23 include service credit reciprocally recognized pursuant to Sections
24

1 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2
2 of this title but for eligibility purposes only.

3 C. The duration of participation in the Oklahoma Firefighters
4 Deferred Option Plan for active firefighters shall not exceed five
5 (5) years. Participation in the Oklahoma Firefighters Deferred
6 Option Plan must begin the first day of a month and end on the last
7 day of a month. At the conclusion of a member's participation in
8 the Oklahoma Firefighters Deferred Option Plan, the member shall
9 terminate employment with all participating municipalities as a
10 firefighter, and shall start receiving the member's accrued monthly
11 retirement benefit from the System. Such a member may be reemployed
12 by a participating municipality but only in a position not covered
13 under the System, and receive in-service distributions of such
14 member's accrued monthly retirement benefit from the System.

15 D. When a member begins participation in the Oklahoma
16 Firefighters Deferred Option Plan, the contribution of the member
17 shall cease. The employer contributions shall continue to be paid
18 in accordance with subsection B of Section 49-122 of this title.
19 Employer contributions for members who elect the Oklahoma
20 Firefighters Deferred Option Plan shall be credited equally to the
21 Oklahoma Firefighters Pension and Retirement System and to the
22 member's Oklahoma Firefighters Deferred Option Plan account. The
23 monthly retirement benefits that would have been payable had the
24 member elected to cease employment and receive a service retirement

1 shall be paid into the member's Oklahoma Firefighters Deferred
2 Option Plan account.

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

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

11 F. A member in the plan shall receive, at the option of the
12 member, a lump sum payment from the account equal to the payments to
13 the account or an annuity based upon the account of the member or
14 may elect any other method of payment if approved by the Board of
15 Trustees. If a member becomes so physically or mentally disabled
16 while in, or in consequence of, the performance of his or her duty
17 as to prevent the effective performance of his or her duties that
18 the State Board approves an in line of duty disability pension, the
19 payment from the account shall be an in line of duty disability
20 payment.

21 G. If a member dies while maintaining an account balance in the
22 plan the System shall pay to the designated recipient or recipients
23 of the member, or if there is no designated recipient or if the
24 designated recipient predeceases the member, to the spouse of the

1 member, or if there is no spouse or if the spouse predeceases the
2 member, to the estate of the member a lump sum payment equal to the
3 account balance of the member. If such member was receiving, or
4 eligible to receive, an in line of duty disability pension at the
5 time of his or her death, payment of the account balance shall be an
6 in line of duty disability payment. If a designated recipient is
7 the surviving spouse of the member, the surviving spouse shall
8 receive his or her portion of the account balance of the member
9 pursuant to subsection F of this section. The surviving spouse,
10 whether or not he or she is a designated recipient of the member,
11 may elect to receive his or her portion of the account balance of
12 the member in the same manner as was applicable to the member.

13 H. In lieu of participating in the Oklahoma Firefighters
14 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
15 this section, a member may elect to participate in the Oklahoma
16 Firefighters Deferred Option Plan pursuant to this subsection as
17 follows:

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

20 a. "back drop date" means the member's normal retirement
21 date or the date five (5) years before the member
22 elects to participate in the Oklahoma Firefighters
23 Deferred Option Plan, whichever date is later,
24

1 b. "termination date" means the date the member elects to
2 participate in the Oklahoma Firefighters Deferred
3 Option Plan pursuant to this subsection, and the date
4 the member terminates employment with all
5 participating municipalities as an active firefighter,

6 c. "earlier attained credited service" means the credited
7 service earned by a member as of the back drop date,
8 and

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

22 2. At the termination date, the monthly pension benefit shall
23 be determined based on earlier attained credited service and on the
24 final average salary as of the back drop date. The member's

1 individual deferred option account shall be credited with an amount
2 equal to the deferred benefit balance, the member shall terminate
3 employment with all participating municipalities as a firefighter,
4 and shall start receiving the member's accrued monthly retirement
5 benefit from the System. Such a member may be reemployed by a
6 participating municipality but only in a position not covered under
7 the System, and receive in-service distributions of such member's
8 accrued monthly retirement benefit from the System. The provisions
9 of subsections B, C, E, F and G of this section shall apply to this
10 subsection. A member shall not participate in the Oklahoma
11 Firefighters Deferred Option Plan pursuant to this subsection if the
12 member has elected to participate in the Oklahoma Firefighters
13 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
14 this section.

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

18 1. For purposes of this subsection, the following definitions
19 shall apply:

20 a. "back drop election date" means the date the surviving
21 spouse or member elects to commence participation in
22 the Oklahoma Firefighters Deferred Option Plan
23 pursuant to subsection H of this section and this
24 subsection,

1 b. "interest" means the actuarial assumed interest rate
2 as certified by the actuary in the yearly evaluation
3 report of the actuary,

4 c. "monthly adjustment amount" means the difference
5 between the monthly pension prior to the back drop
6 election and the adjusted monthly pension due to the
7 back drop election,

8 d. "back drop pension adjustment amount" means the sum of
9 all the monthly adjustment amounts adjusted for
10 interest from the pension commencement date to the
11 back drop election date, and

12 e. "deferred benefit balance adjustment amount" means the
13 interest on the deferred benefit balance from the
14 pension commencement date to the back drop election
15 date.

16 2. If a member who has more than twenty (20) years of
17 creditable service and is eligible to receive a service retirement
18 pension dies on or after the effective date of this act, and prior
19 to terminating employment, the member's surviving spouse shall be
20 eligible to elect to receive a benefit determined as if the member
21 had elected to participate in the Oklahoma Firefighters Deferred
22 Option Plan in accordance with subsection H of this section on the
23 day immediately preceding such member's death. The surviving spouse
24 must make any such election within one (1) year from the date of the

1 member's death. If such election is made, the monthly pension such
2 surviving spouse is receiving, or is entitled to receive, shall be
3 adjusted in accordance with the provisions of subsection H of this
4 section to account for the member's participation in the Oklahoma
5 Firefighters Deferred Option Plan. The deferred benefit balance
6 such surviving spouse is entitled to receive shall be reduced by the
7 back drop pension adjustment amount and increased by the deferred
8 benefit balance adjustment amount. The surviving spouse may only
9 make a back drop election if the deferred benefit balance after the
10 adjustment described in this paragraph is greater than Zero Dollars
11 (\$0.00). The surviving spouse may only make this election if the
12 member has not previously elected to participate in the Oklahoma
13 Firefighters Deferred Option Plan. For purposes of this election,
14 the surviving spouse must have been married to the firefighter for
15 the thirty (30) continuous months preceding the firefighter's death;
16 provided, the surviving spouse of a member who died while in, or as
17 a consequence of, the performance of the member's duty for a
18 participating municipality shall not be subject to the marriage
19 limitation for this election.

20 3. If a member has more than twenty (20) years of creditable
21 service and is eligible for a retirement for disability monthly
22 pension pursuant to Section 49-109 of this title on or after the
23 effective date of this act, such member shall be eligible to elect
24 to receive a benefit determined as if the member had elected to

1 participate in the Oklahoma Firefighters Deferred Option Plan, in
2 accordance with subsection H of this section, on the day immediately
3 preceding the date of the member's disability retirement, provided
4 such election is made within two (2) years from the date of the
5 member's disability retirement. The disability monthly pension such
6 member is receiving, or entitled to receive, shall be adjusted in
7 accordance with the provisions of subsection H of this section to
8 account for the member's participation in the Oklahoma Firefighters
9 Deferred Option Plan. The deferred benefit balance such member is
10 entitled to receive shall be reduced by the back drop pension
11 adjustment amount and increased by the deferred benefit balance
12 adjustment amount. The member may only make a back drop election if
13 the deferred benefit balance after the adjustment described in this
14 paragraph is greater than Zero Dollars (\$0.00). The member may only
15 make this election if the member has not previously elected to
16 participate in the Oklahoma Firefighters Deferred Option Plan.

17 4. If a member has more than twenty (20) years of creditable
18 service and filed a grievance for wrongful termination occurring on
19 or after the effective date of this act, but is not reinstated as an
20 active member, such member shall be eligible to elect to receive a
21 benefit determined as if the member had elected to participate in
22 the Oklahoma Firefighters Deferred Option Plan in accordance with
23 subsection H of this section on the day immediately preceding the
24 date of the member's termination. Such election must be made within

1 two (2) years from the date of the member's termination as an active
2 member and, if the member's case pertaining to the member's
3 termination is on appeal to a court of competent jurisdiction,
4 within such period set by the State Board in its sole discretion.
5 The monthly pension such member is receiving, or entitled to
6 receive, shall be adjusted in accordance with the provisions of
7 subsection H of this section to account for the member's
8 participation in the Oklahoma Firefighters Deferred Option Plan.
9 The deferred benefit balance such member is entitled to receive
10 shall be reduced by the back drop pension adjustment amount and
11 increased by the deferred benefit balance adjustment amount. The
12 member may only make a back drop election if the deferred benefit
13 balance after the adjustment described in this paragraph is greater
14 than Zero Dollars (\$0.00). The member may only make this election
15 if the member has not previously elected to participate in the
16 Oklahoma Firefighters Deferred Option Plan.

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

20 Section 49-106.2 A. Notwithstanding any other provision
21 contained herein to the contrary, the benefits payable to a member
22 in the System shall be subject to the limitations of Section 415 of
23 the Internal Revenue Code of 1986, as amended, in accordance with
24 the provisions of ~~subsections B and C~~ of this section.

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

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

12 ~~2.~~ ~~For limitation years beginning prior to January 1, 1995, one~~
13 ~~hundred percent (100%) of the average earnings of the member for the~~
14 ~~three (3) consecutive calendar years, while a member in the System,~~
15 ~~in which the member's earnings were the highest. For purposes of~~
16 ~~this paragraph, earnings for.~~

17 The automatic annual adjustment of the dollar limitation in this
18 subsection under Section 415(d) of the Internal Revenue Code of
19 1986, as amended, shall apply to a member who has had a separation
20 from employment.

21 1. The member's annual benefit is a benefit that is payable
22 annually in the form of a straight life annuity. Except as provided
23 below, where a benefit is payable in a form other than a straight
24 life annuity, the benefit shall be adjusted to an actuarially

1 equivalent straight life annuity that begins at the same time as
2 such other form of benefit and is payable on the first day of each
3 month, before applying the limitations of this section. For a
4 member who has or will have distributions commencing at more than
5 one annuity starting date, the annual benefit shall be determined as
6 of each such annuity starting date and shall satisfy the limitations
7 of this section as of each such date, actuarially adjusting for past
8 and future distributions of benefits commencing at the other annuity
9 starting dates. For this purpose, the determination of whether a
10 new starting date has occurred shall be made without regard to
11 Section 1.401(a)-20, Q&A 10(d), and with regard to Section 1.415(b)-
12 1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.

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

14 a. survivor benefits payable to a surviving spouse under
15 a qualified joint and survivor annuity to the extent
16 such benefits would not be payable if the member's
17 benefit were paid in another form,

18 b. benefits that are not directly related to retirement
19 benefits such as a qualified disability benefit,
20 preretirement incidental death benefits, and
21 postretirement medical benefits, or

22 c. the inclusion in the form of a benefit of an automatic
23 benefit increase feature, provided, the form of
24 benefit is not subject to Section 417(e)(3) of the

1 Internal Revenue Code of 1986, as amended, and would
2 otherwise satisfy the limitations of this section, and
3 the System provides that the amount payable under the
4 form of benefit in any limitation year shall be the
5 ~~earned income of the member, wages, salaries, and fees~~
6 ~~for professional services, and other amounts received~~
7 ~~for personal services actually rendered in the course~~
8 ~~of employment with a participating municipality,~~
9 ~~provided such amounts are actually paid or includable~~
10 ~~in gross income during such year. Earnings shall~~
11 ~~exclude the following:~~

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

1 ~~3. Except as provided in paragraph 5 of this subsection, the~~
2 ~~limitations specified in paragraphs 1 and 2 of this subsection shall~~
3 ~~not be applicable with respect to any member whose total annual~~
4 ~~accrued retirement benefit payable from the System is less than Ten~~
5 ~~Thousand Dollars (\$10,000.00) and who has not at any time~~
6 ~~participated in any contribution plan, within the meaning of Section~~
7 ~~415(k) of the Internal Revenue Code of 1986, maintained by a~~
8 ~~participating municipality; not exceed the limits of this section~~
9 ~~applicable at the annuity starting date, as increased in subsequent~~
10 ~~years pursuant to Section 415(d) of the Internal Revenue Code of~~
11 ~~1986, as amended. For this purpose, an automatic benefit increase~~
12 ~~feature is included in a form of benefit if the form of benefit~~
13 ~~provides for automatic, periodic increases to the benefits paid in~~
14 ~~that form.~~

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

22 4. Effective for distributions in plan years beginning after
23 December 31, 2003, the determination of actuarial equivalence of
24

1 forms of benefit other than a straight life annuity shall be made in
2 accordance with paragraph 5 or paragraph 6 of this subsection.

3 5. The straight life annuity that is actuarially equivalent to
4 the member's form of benefit shall be determined under this
5 paragraph if the form of the member's benefit is either:

6 a. a non-decreasing annuity other than a straight life
7 annuity payable for a period of not less than the life
8 of the member or, in the case of a qualified
9 preretirement survivor annuity, the life of the
10 surviving spouse,

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

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

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

21 c. for limitation years beginning before July 1, 2007,
22 the actuarially equivalent straight life annuity is
23 equal to the annual amount of the straight life
24 annuity commencing at the same annuity starting date

1 that has the same actuarial present value as the
2 member's form of benefit computed using whichever of
3 the following produces the greater annual 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 49-100.9 of this title
7 for adjusting benefits in the same form, and
8 (2) a five percent (5%) interest rate assumption and
9 the applicable mortality table described in
10 Revenue Ruling 2001-62 for that annuity starting
11 date, or

12 d. for limitation years beginning on or after July 1,
13 2007, the actuarially equivalent straight life annuity
14 is equal to the greater of:

- 15 (1) the annual amount of the straight life annuity,
16 if any, payable to the member under the System
17 commencing at the same annuity starting date as
18 the member's form of benefit, and
19 (2) 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 a five
23 percent (5%) interest rate assumption and the

24

1 applicable mortality table described in Revenue
2 Ruling 2001-62 for that annuity starting date.

3 6. The straight life annuity that is actuarially equivalent to
4 the member's form of benefit shall be determined under this
5 paragraph if the form of the member's benefit is other than a
6 benefit form described in paragraph 5 of this subsection. In this
7 case, the actuarially equivalent straight life annuity shall be
8 determined as follows:

9 a. if the annuity starting date of the member's form of
10 benefit is in a plan year beginning after 2005, the
11 actuarially equivalent straight life annuity is equal
12 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, divided by one and

22 five one hundredths (1.05).

23 b. (1) if the annuity starting date of the member's form

24 of benefit is in a plan year beginning in 2004 or

1 2005, the actuarially equivalent straight life
2 annuity is equal to the annual amount of the
3 straight life annuity commencing at the same
4 annuity starting date that has the same actuarial
5 present value as the member's form of benefit,
6 computed using whichever of the following
7 produces the greater annual amount:

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

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

16 (2) if the annuity starting date of the member's
17 benefit is on or after the first day of the first
18 plan year beginning in 2004 and before December
19 31, 2004, the application of this subparagraph
20 shall not cause the amount payable under the
21 member's form of benefit to be less than the
22 benefit calculated under the System, taking into
23 account the limitations of this section, except
24 that the actuarially equivalent straight life

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

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

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

1 applicable interest rate remains

2 constant, and

3 ii. the applicable mortality table

4 described in Revenue Ruling 2001-62,

5 and

6 (c) 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 plan year which contains

16 the annuity starting date for the

17 distribution and for which the

18 applicable interest rate remains

19 constant as in effect on the last day

20 of the last plan year beginning before

21 January 1, 2004, under provisions of

22 the System then adopted and in effect,

23 and

24

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

1 under subsection B of this section shall be adjusted under paragraph
2 2 of this subsection, as modified by paragraph 3 of this subsection.

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

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

19 or

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

23 b. (1) If the annuity starting date for the member's
24 benefit is prior to sixty-two (62) years of age

1 and occurs in a limitation year beginning on or
2 after July 1, 2007, and the System does not have
3 an immediately commencing straight life annuity
4 payable at both sixty-two (62) years of age and
5 the age of benefit commencement, the dollar
6 limitation for the member's annuity starting date
7 is the annual amount of a benefit payable in the
8 form of a straight life annuity commencing at the
9 member's annuity starting date that is the
10 actuarial equivalent of the dollar limitation
11 under subsection B of this section adjusted under
12 subsection C of this section for years of
13 participation less than ten (10), if required,
14 with actuarial equivalence computed using a five
15 percent (5%) interest rate assumption and the
16 applicable mortality table for the annuity
17 starting date as described in Revenue Ruling
18 2001-62 and expressing the member's age based on
19 completed calendar months as of the annuity
20 starting date, or

21 (2) if the annuity starting date for the member's
22 benefit is prior to sixty-two (62) years of age
23 and occurs in a limitation year beginning on or
24 after July 1, 2007, and the System has an

1 immediately commencing straight life annuity
2 payable at both sixty-two (62) years of age and
3 the age of benefit commencement, the dollar
4 limitation for the member's annuity starting date
5 is the lesser of the limitation determined under
6 division (1) of subparagraph b of this paragraph
7 and the dollar limitation under subsection B of
8 this section adjusted under subsection C of this
9 section for years of participation less than ten
10 (10), if required, multiplied by the ratio of the
11 annual amount of the immediately commencing
12 straight life annuity under the System as the
13 member's annuity starting date to the annual
14 amount of the immediately commencing straight
15 life annuity under the System at sixty-two (62)
16 years of age, both determined without applying
17 the limitation of this section.

- 18 2. a. If the annuity starting date for the member's benefit
19 is after sixty-five (65) years of age and occurs in a
20 limitation year beginning before July 1, 2007, the
21 dollar limitation for the member's annuity starting
22 date is the annual amount of a benefit payable in the
23 form of a straight life annuity commencing at the
24 member's annuity starting date that is the actuarial

1 equivalent of the dollar limitation under subsection B
2 of this section adjusted under subsection C of this
3 section for years of participation less than ten (10),
4 if required, with actuarial equivalence computed using
5 whichever of the following produces the smaller annual
6 amount:

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

10 or

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

14 b. (1) If the annuity starting date for the member's
15 benefit is after sixty-five (65) years of age and
16 occurs in a limitation year beginning on or after
17 July 1, 2007, and the System does not have an
18 immediately commencing straight life annuity
19 payable at both sixty-five (65) years of age and
20 the age of benefit commencement, the dollar
21 limitation at the member's annuity starting date
22 is the annual amount of a benefit payable in the
23 form of a straight life annuity commencing at the
24 member's annuity starting date that is the

1 actuarial equivalent of the dollar limitation
2 under 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) If the annuity starting date for the member's
13 benefit is after sixty-five (65) years of age and
14 occurs in a limitation year beginning on or after
15 July 1, 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~~

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. Notwithstanding anything else in this section to the
18 contrary, the benefit otherwise accrued or payable to a member under
19 this System shall be deemed not to exceed the maximum permissible
20 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 has
9 not at any time maintained a defined contribution plan in which the
10 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.~~

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.~~

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 106.3, as
19 last amended by Section 2, Chapter 345, O.S.L. 2007 (11 O.S. Supp.
20 2007, Section 106.3), is amended to read as follows:

21 Section 106.3 A. For distributions made on or after January 1,
22 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.~~

24

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(1)(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. This act shall become effective July 1, 2008.

23 SECTION 5. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

