

THE STATE SENATE
Monday, February 25, 2008

Senate Bill No. 2158
As Amended

SB 2158

SENATE BILL NO. 2158 - By: BARRINGTON of the Senate and JOYNER of the House.

[cities and towns - limitations on benefits to federal law
- effective date -
emergency]

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

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

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

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

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

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

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

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

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

21 a. "back drop date" means the member's normal retirement
22 date or the date five (5) years before the member

1 elects to participate in the Oklahoma Firefighters
2 Deferred Option Plan, whichever date is later,
3 b. "termination date" means the date the member elects to
4 participate in the Oklahoma Firefighters Deferred
5 Option Plan pursuant to this subsection, and the date
6 the member terminates employment with all
7 participating municipalities as an active firefighter,
8 c. "earlier attained credited service" means the credited
9 service earned by a member as of the back drop date,
10 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 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 on a compound annual
20 basis as if the member had participated in the
21 Oklahoma Firefighters Deferred Option Plan pursuant to
22 subsections A, B, C, D, E and F of this section from
23 the back drop date to the termination date; and

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 firefighter,
7 and shall start receiving the member's accrued monthly retirement
8 benefit from the System. Such a member may be reemployed by a
9 participating municipality but only in a position not covered under
10 the System, and receive in-service distributions of such member's
11 accrued monthly retirement benefit from the System. The provisions
12 of subsections B, C, E, F and G of this section shall apply to this
13 subsection. A member shall not participate in the Oklahoma
14 Firefighters Deferred Option Plan pursuant to this subsection if the
15 member has elected to participate in the Oklahoma Firefighters
16 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
17 this section.

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

21 1. For purposes of this subsection, the following definitions
22 shall apply:

- 1 a. "back drop election date" means the date the surviving
2 spouse or member elects to commence participation in
3 the Oklahoma Firefighters Deferred Option Plan
4 pursuant to subsection H of this section and this
5 subsection,
- 6 b. "interest" means the actuarial assumed interest rate
7 as certified by the actuary in the yearly evaluation
8 report of the actuary,
- 9 c. "monthly adjustment amount" means the difference
10 between the monthly pension prior to the back drop
11 election and the adjusted monthly pension due to the
12 back drop election,
- 13 d. "back drop pension adjustment amount" means the sum of
14 all the monthly adjustment amounts adjusted for
15 interest from the pension commencement date to the
16 back drop election date, and
- 17 e. "deferred benefit balance adjustment amount" means the
18 interest on the deferred benefit balance from the
19 pension commencement date to the back drop election
20 date.

21 2. If a member who has more than twenty (20) years of
22 creditable service and is eligible to receive a service retirement
23 pension dies on or after the effective date of this act, and prior

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

1 participating municipality shall not be subject to the marriage
2 limitation for this election.

3 3. If a member has more than twenty (20) years of creditable
4 service and is eligible for a retirement for disability monthly
5 pension pursuant to Section 49-109 of this title on or after the
6 effective date of this act, such member shall be eligible to elect
7 to receive a benefit determined as if the member had elected to
8 participate in the Oklahoma Firefighters Deferred Option Plan, in
9 accordance with subsection H of this section, on the day immediately
10 preceding the date of the member's disability retirement, provided
11 such election is made within two (2) years from the date of the
12 member's disability retirement. The disability monthly pension such
13 member is receiving, or entitled to receive, shall be adjusted in
14 accordance with the provisions of subsection H of this section to
15 account for the member's participation in the Oklahoma Firefighters
16 Deferred Option Plan. The deferred benefit balance such member is
17 entitled to receive shall be reduced by the back drop pension
18 adjustment amount and increased by the deferred benefit balance
19 adjustment amount. The member may only make a back drop election if
20 the deferred benefit balance after the adjustment described in this
21 paragraph is greater than Zero Dollars (\$0.00). The member may only
22 make this election if the member has not previously elected to
23 participate in the Oklahoma Firefighters Deferred Option Plan.

1 4. If a member has more than twenty (20) years of creditable
2 service and filed a grievance for wrongful termination occurring on
3 or after the effective date of this act, but is not reinstated as an
4 active member, such member shall be eligible to elect to receive a
5 benefit determined as if the member had elected to participate in
6 the Oklahoma Firefighters Deferred Option Plan in accordance with
7 subsection H of this section on the day immediately preceding the
8 date of the member's termination. Such election must be made within
9 two (2) years from the date of the member's termination as an active
10 member and, if the member's case pertaining to the member's
11 termination is on appeal to a court of competent jurisdiction,
12 within such period set by the State Board in its sole discretion.
13 The monthly pension such member is receiving, or entitled to
14 receive, shall be adjusted in accordance with the provisions of
15 subsection H of this section to account for the member's
16 participation in the Oklahoma Firefighters Deferred Option Plan.
17 The deferred benefit balance such member is entitled to receive
18 shall be reduced by the back drop pension adjustment amount and
19 increased by the deferred benefit balance adjustment amount. The
20 member may only make a back drop election if the deferred benefit
21 balance after the adjustment described in this paragraph is greater
22 than Zero Dollars (\$0.00). The member may only make this election

1 if the member has not previously elected to participate in the
2 Oklahoma Firefighters Deferred Option Plan.

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

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

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

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

22 ~~2. For limitation years beginning prior to January 1, 1995, one~~
23 ~~hundred percent (100%) of the average earnings of the member for the~~

1 ~~three (3) consecutive calendar years, while a member in the System,~~
2 ~~in which the member's earnings were the highest. For purposes of~~
3 ~~this paragraph, earnings for.~~

4 The automatic annual adjustment of the dollar limitation in this
5 subsection under Section 415(d) of the Internal Revenue Code of
6 1986, as amended, shall apply to a member who has had a separation
7 from employment.

8 1. The member's annual benefit is a benefit that is payable
9 annually in the form of a straight life annuity. Except as provided
10 below, where a benefit is payable in a form other than a straight
11 life annuity, the benefit shall be adjusted to an actuarially
12 equivalent straight life annuity that begins at the same time as
13 such other form of benefit and is payable on the first day of each
14 month, before applying the limitations of this section. For a
15 member who has or will have distributions commencing at more than
16 one annuity starting date, the annual benefit shall be determined as
17 of each such annuity starting date and shall satisfy the limitations
18 of this section as of each such date, actuarially adjusting for past
19 and future distributions of benefits commencing at the other annuity
20 starting dates. For this purpose, the determination of whether a
21 new starting date has occurred shall be made without regard to
22 Section 1.401(a)-20, Q&A 10(d), and with regard to Section 1.415(b)-
23 1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.

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

2 a. survivor benefits payable to a surviving spouse under
3 a qualified joint and survivor annuity to the extent
4 such benefits would not be payable if the member's
5 benefit were paid in another form,

6 b. benefits that are not directly related to retirement
7 benefits such as a qualified disability benefit,
8 preretirement incidental death benefits, and
9 postretirement medical benefits, or

10 c. the inclusion in the form of a benefit of an automatic
11 benefit increase feature, provided, the form of
12 benefit is not subject to Section 417(e)(3) of the
13 Internal Revenue Code of 1986, as amended, and would
14 otherwise satisfy the limitations of this section, and
15 the System provides that the amount payable under the
16 form of benefit in any limitation year shall be the
17 earned income of the member, wages, salaries, and fees
18 for professional services, and other amounts received
19 for personal services actually rendered in the course
20 of employment with a participating municipality,
21 provided such amounts are actually paid or includable
22 in gross income during such year. Earnings shall
23 exclude the following:

1 ~~a. contributions by a participating municipality to a~~
2 ~~plan of deferred compensation which are not included~~
3 ~~in the gross income of the member for the taxable year~~
4 ~~in which contributed or any distributions from a~~
5 ~~funded plan of deferred compensation, and~~
6 ~~b. other amounts which received special tax benefits, or~~
7 ~~contributions made by a participating municipality,~~
8 ~~whether or not under a salary reduction agreement,~~
9 ~~towards the purchase of an annuity described in~~
10 ~~Section 403(b) of the Internal Revenue Code of 1986,~~
11 ~~whether or not the amounts are actually excludable~~
12 ~~from the gross income of the member;~~
13 ~~3. Except as provided in paragraph 5 of this subsection, the~~
14 ~~limitations specified in paragraphs 1 and 2 of this subsection shall~~
15 ~~not be applicable with respect to any member whose total annual~~
16 ~~accrued retirement benefit payable from the System is less than Ten~~
17 ~~Thousand Dollars (\$10,000.00) and who has not at any time~~
18 ~~participated in any contribution plan, within the meaning of Section~~
19 ~~415(k) of the Internal Revenue Code of 1986, maintained by a~~
20 ~~participating municipality; not exceed the limits of this section~~
21 ~~applicable at the annuity starting date, as increased in subsequent~~
22 ~~years pursuant to Section 415(d) of the Internal Revenue Code of~~
23 ~~1986, as amended. For this purpose, an automatic benefit increase~~

1 feature is included in a form of benefit if the form of benefit
2 provides for 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. The straight life annuity that is actuarially equivalent to
16 the member's form of benefit shall be determined under this
17 paragraph if the form of the member's benefit is either:

18 a. a non-decreasing annuity other than a straight life
19 annuity payable for a period of not less than the life
20 of the member or, in the case of a qualified
21 preretirement survivor annuity, the life of the
22 surviving spouse,

1 b. an annuity that decreases during the life of the
2 member merely because of:

3 (1) the death of the survivor annuitant, but only if
4 the reduction is not below fifty percent (50%) of
5 the benefit payable before the death of the
6 survivor annuitant, or

7 (2) the cessation or reduction of Social Security
8 supplements or qualified disability payments as
9 defined in Section 401(a)(11) of the Internal
10 Revenue Code of 1986, as amended,

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

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

22 (2) a five percent (5%) interest rate assumption and
23 the applicable mortality table described in

1 Revenue Ruling 2001-62 for that annuity starting
2 date, or
3 d. for limitation years beginning on or after July 1,
4 2007, the actuarially equivalent straight life annuity
5 is equal to the greater of:
6 (1) the annual amount of the straight life annuity,
7 if any, payable to the member under the System
8 commencing at the same annuity starting date as
9 the member's form of benefit, and
10 (2) the annual amount of the straight life annuity
11 commencing at the same annuity starting date that
12 has the same actuarial present value as the
13 member's form of benefit, computed using a five
14 percent (5%) interest rate assumption and the
15 applicable mortality table described in Revenue
16 Ruling 2001-62 for that annuity starting date.

17 6. The straight life annuity that is actuarially equivalent to
18 the member's form of benefit shall be determined under this
19 paragraph if the form of the member's benefit is other than a
20 benefit form described in paragraph 5 of this subsection. In this
21 case, the actuarially equivalent straight life annuity shall be
22 determined as follows:

1 a. if the annuity starting date of the member's form of
2 benefit is in a plan year beginning after 2005, the
3 actuarially equivalent straight life annuity is equal
4 to the greatest of:

5 (1) the annual amount of the straight life annuity
6 commencing at the same annuity starting date that
7 has the same actuarial present value as the
8 member's form of benefit, computed using the
9 interest rate and the mortality table or other
10 tabular factor each as set forth in subsection H
11 of Section 49-100.9 of this title for adjusting
12 benefits in the same form,

13 (2) 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 a five
17 and one-half percent (5.5%) interest rate
18 assumption and the applicable mortality table
19 described in Revenue Ruling 2001-62, and

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

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

16 b. (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,

1 computed using whichever of the following
2 produces the greater annual amount:

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

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

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

1 computed using whichever of the following
2 produces the greatest annual amount:

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

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

1 (ii) the applicable mortality table
2 described in Revenue Ruling 2001-62,
3 and
4 (c) (i) the rate of interest on thirty-year
5 Treasury securities as specified by the
6 Commissioner for the lookback month for
7 the stability period specified below.
8 The lookback month applicable to the
9 stability period is the fourth calendar
10 month preceding the first day of the
11 stability period, as specified below.
12 The stability period is the successive
13 period of one plan year which contains
14 the annuity starting date for the
15 distribution and for which the
16 applicable interest rate remains
17 constant as in effect on the last day
18 of the last plan year beginning before
19 January 1, 2004, under provisions of
20 the System then adopted and in effect,
21 and
22 (ii) the applicable mortality table
23 described in Revenue Ruling 2001-62.

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

11 ~~5. Effective for limitation years beginning on or after January~~
12 ~~1, 1995, if a member has been credited with less than ten (10) years~~
13 ~~of credited service, the dollar amount otherwise applicable under~~
14 ~~paragraph 3 of this subsection shall be reduced by multiplying such~~
15 ~~dollar amount by a fraction, the numerator of which is the number of~~
16 ~~the years of credited service of the member, but never less than one~~
17 ~~(1), and the denominator of which is ten (10);~~

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

1 ~~adjustment shall be based on the mortality tables and interest rates~~
2 ~~described in divisions (1), (2) and (3) of subparagraph a of this~~
3 ~~paragraph.~~

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

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

16 ~~(2) Effective for limitation years beginning on or~~
17 ~~after January 1, 1999, the actuarial equivalent~~
18 ~~adjustments in this subparagraph shall be~~
19 ~~determined using the prevailing Commissioner's~~
20 ~~standard table (described in Section 807(d)(5)(A)~~
21 ~~of the Internal Revenue Code of 1986), without~~
22 ~~regard to any other subparagraph of Section~~
23 ~~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 D. Effective for benefits commencing in limitation years ending
14 after December 31, 2001, the dollar limitation under subsection B of
15 this section shall be adjusted if the annuity starting date of the
16 member's benefit is before sixty-two (62) years of age or after
17 sixty-five (65) years of age. If the annuity starting date is
18 before sixty-two (62) years of age, the dollar limitation under
19 subsection B of this section shall be adjusted under paragraph 1 of
20 this subsection, as modified by paragraph 3 of this subsection, but
21 subject to paragraph 4 of this subsection. If the annuity starting
22 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.

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

1 (2) if the annuity starting date for the member's
2 benefit is prior to sixty-two (62) years of age
3 and occurs in a limitation year beginning on or
4 after July 1, 2007, and the System has an
5 immediately commencing straight life annuity
6 payable at both sixty-two (62) years of age and
7 the age of benefit commencement, the dollar
8 limitation for the member's annuity starting date
9 is the lesser of the limitation determined under
10 division (1) of subparagraph b of this paragraph
11 and the dollar limitation under subsection B of
12 this section adjusted under subsection C of this
13 section for years of participation less than ten
14 (10), if required, multiplied by the ratio of the
15 annual amount of the immediately commencing
16 straight life annuity under the System as the
17 member's annuity starting date to the annual
18 amount of the immediately commencing straight
19 life annuity under the System at sixty-two (62)
20 years of age, both determined without applying
21 the limitation of this section.

22 2. a. If the annuity starting date for the member's benefit
23 is after sixty-five (65) years of age and occurs in a

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

12 (1) the interest rate and the mortality table or
13 other tabular factor each as set forth in
14 subsection H of Section 49-100.9 of this title,
15 or
16 (2) a five percent (5%) interest rate assumption and
17 the applicable mortality table as described in
18 Revenue Ruling 2001-62.

19 b. (1) If the annuity starting date for the member's
20 benefit is after sixty-five (65) years of age and
21 occurs in a limitation year beginning on or after
22 July 1, 2007, and the System does not have an
23 immediately commencing straight life annuity

1 payable at both sixty-five (65) years of age and
2 the age of benefit commencement, the dollar
3 limitation at the member's annuity starting date
4 is the annual amount of a benefit payable in the
5 form of a straight life annuity commencing at the
6 member's annuity starting date that is the
7 actuarial equivalent of the dollar limitation
8 under subsection B of this section adjusted under
9 subsection C of this section for years of
10 participation less than ten (10), if required,
11 with actuarial equivalence computed using a five
12 percent (5%) interest rate assumption and the
13 applicable mortality table for the annuity
14 starting date as described in Revenue Ruling
15 2001-62 and expressing the member's age based on
16 completed calendar months as of the annuity
17 starting date.

18 (2) If the annuity starting date for the member's
19 benefit is after sixty-five (65) years of age and
20 occurs in a limitation year beginning on or after
21 July 1, 2007, and the System has an immediately
22 commencing straight life annuity payable at both
23 sixty-five (65) years of age and the age of

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

1 accruals, and the adjusted immediately commencing
2 straight life annuity under the System at sixty-
3 five (65) years of age is the annual amount of
4 such annuity that would be payable under the
5 System to a hypothetical member who is sixty-five
6 (65) years of age and has the same accrued
7 benefit as the member.

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

21 ~~(3)~~ For 4. Notwithstanding any other provision to the
22 contrary, for limitation years beginning on or after January 1,
23 1997, if payment begins before the member reaches age sixty-two (62)

1 years of age, the reductions in the limitations in this ~~subparagraph~~
2 subsection shall not apply to a member who is a "qualified
3 participant" as defined in Section 415(b)(2)(H) of the Internal
4 Revenue Code of 1986, as amended.

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

10 ~~(1) For limitation years beginning before January 1,~~
11 ~~1999, the interest rate to be used to determine~~
12 ~~such actuarial equivalent amount in this~~
13 ~~subparagraph shall be the rate specified in the~~
14 ~~actuarial tables adopted by the State Board;~~
15 ~~however, the interest rate used in determining an~~
16 ~~actuarially equivalent post age sixty five (65)~~
17 ~~amount shall not be greater than five percent~~
18 ~~(5%).~~

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

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

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

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

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

16 2. The participating municipality or a predecessor employer has
17 not at any time maintained a defined contribution plan in which the
18 member participated for this purpose, mandatory employee
19 contributions under a defined benefit plan, individual medical
20 accounts under section 401(h) of the Internal Revenue Code of 1986,
21 as amended, and accounts for postretirement medical benefits
22 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 ~~7-~~ 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 ~~8-~~ G. For limitation years beginning on or after January 1,
14 1995, ~~paragraphs 4, 5 and 6 of this subsection C of this section,~~
15 paragraph 1 of subsection D of this section and the proration
16 provided under subparagraphs a and b of paragraph 1 of subsection E
17 of this section, shall not apply to a benefit paid under the System
18 as a result of the member becoming disabled by reason of personal
19 injuries or sickness, or amounts received by the beneficiaries,
20 survivors or estate of the member as a result of the death of the
21 member.

22 ~~9-~~ H. Effective for years beginning after December 31, 1997, if
23 a member purchases service under Sections 49-117.2 and 49-117.3 of

1 this title, which qualifies as "permissive service credit" pursuant
 2 to Section 415(n) of the Internal Revenue Code of 1986, as amended,
 3 the limitations of Section 415 of the Internal Revenue Code of 1986,
 4 as amended, may be met by either:

5 ~~a.~~

6 1. Treating the accrued benefit derived from such contributions
 7 as an annual benefit under ~~paragraph 1 of this subsection~~ B of this
 8 section; or

9 ~~b.~~

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

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

20 ~~6. J.~~ 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 State Board is hereby authorized to revoke the
2 special election previously made on June 21, 1991, under Internal
3 Revenue Code Section 415(b)(10).

4 SECTION 3. AMENDATORY 11 O.S. 2001, Section 106.3, as
5 last amended by Section 2, Chapter 345, O.S.L. 2007 (11 O.S. Supp.
6 2007, Section 106.3), is amended to read as follows:

7 Section 106.3 A. For distributions made on or after January 1,
8 1993, and notwithstanding any provision of the System to the
9 contrary that would otherwise limit a Distributee's election
10 hereunder, a Distributee may elect, at the time and in the manner
11 prescribed by the State Board, to have any portion of an Eligible
12 Rollover Distribution paid directly to an Eligible Retirement Plan
13 specified by the Distributee in a Direct Rollover.

14 B. For purposes of this section, the following definitions
15 shall apply:

16 1. "Eligible Rollover Distribution" means any distribution of
17 all or any portion of the balance to the credit of the Distributee,
18 except that an Eligible Rollover Distribution does not include any
19 distribution that is one of a series of substantially equal periodic
20 payments (not less frequently than annually) made for the life (or
21 life expectancy) of the Distributee or the joint lives (or life
22 expectancies) of the Distributee and the Distributee's designated
23 beneficiary, or for a specified period of ten (10) years or more;

1 any distribution to the extent such distribution is required under
2 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;
3 and the portion of any distribution that is not includable in gross
4 income; ~~provided, however, that, effective.~~ Effective January 1,
5 2002, a portion of a distribution shall not fail to be an Eligible
6 Rollover Distribution merely because the portion consists of after-
7 tax member contributions which are not includable in gross income.
8 However, such portion may be paid only:

- 9 (a) from January 1, 2002, through December 31, 2006, to:
- 10 (1) an individual retirement account or annuity
11 described in Section 408(a) or (b) of the
12 Internal Revenue Code of 1986, as amended, or
13 (2) a qualified trust which is a part of a defined
14 contribution plan described in Section 401(a) or
15 403(a) of the Internal Revenue Code of 1986, as
16 amended, and which agrees to separately account
17 for amounts so transferred, including separately
18 accounting for the portion of such distribution
19 which is includable in gross income and the
20 portion of such distribution which is not so
21 includable, and
22 (b) on or after January 1, 2007, to:

- 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 described in Section 401(a) or
5 403(a) of the Internal Revenue Code of 1986, as
6 amended, or an annuity contract described in
7 Section 403(b) of the Internal Revenue Code of
8 1986, as amended, and such trust or annuity
9 contract provides for separate accounting for
10 amounts so transferred (and earnings thereon),
11 including separately accounting for the portion
12 of such distribution which is includable in gross
13 income and the portion of such distribution which
14 is not so includable;

15 2. "Eligible Retirement Plan" means an individual retirement
16 account described in Section 408(a) of the Internal Revenue Code of
17 1986, as amended, an individual retirement annuity described in
18 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
19 annuity plan described in Section 403(a) of the Internal Revenue
20 Code of 1986, as amended, or a qualified trust described in Section
21 401(a) of the Internal Revenue Code of 1986, as amended, that
22 accepts the Distributee's Eligible Rollover Distribution. Effective
23 January 1, 2002, an Eligible Retirement Plan shall also mean an

1 annuity contract described in Section 403(b) of the Internal Revenue
 2 Code of 1986, as amended, and an eligible plan under Section 457(b)
 3 of the Internal Revenue Code of 1986, as amended, which is
 4 maintained by a state, political subdivision of a state, or any
 5 agency or instrumentality of a state or political subdivision of a
 6 state and which agrees to separately account for amounts transferred
 7 into such plan from the System. ~~Effective January 1, 2002, the~~
 8 ~~definition of Eligible Retirement Plan shall also apply in the case~~
 9 ~~of a distribution to a surviving spouse, or to a spouse or former~~
 10 ~~spouse who is the alternate payee pursuant to a qualified domestic~~
 11 ~~order as defined in subsection B of Section 49-126 of this title.~~
 12 ~~An Eligible Retirement Plan does not include a Roth IRA under~~
 13 ~~Section 408A of the Internal Revenue Code of 1986, as amended;~~

14 3. "Distributee" means a member whether or not ~~said~~ the member
 15 is an active firefighter. In addition, effective June 7, 1993, the
 16 member's surviving spouse and the member's spouse or former spouse
 17 who is an alternate payee under a qualified domestic order, as
 18 provided in subsection B of Section 49-126 of this title, are
 19 Distributees with regard to the interest of the spouse or former
 20 spouse. Effective for distributions after December 31, 2006, a
 21 Distributee also includes the member's nonspouse designated
 22 beneficiary, pursuant to Section 401(a)(9)(E) of the Internal
 23 Revenue Code of 1986, as amended. In the case of a nonspouse

1 beneficiary, the Direct Rollover may be made only to an Individual
2 Retirement Account or annuity (other than an endowment contract)
3 described in Section 408(a) or (b) of the Internal Revenue Code of
4 1986, as amended, (IRA), that is established on behalf of such
5 designated beneficiary and that will be treated as an inherited IRA
6 pursuant to the provisions of Section 402(c)(11) of the Internal
7 Revenue Code of 1986, as amended. Also, in this case, the
8 determination of any required minimum distribution under Section
9 401(1)(9) of the Internal Revenue Code of 1986, as amended, that is
10 ineligible for rollover shall be made in accordance with Notice
11 2007-7, Q&A 17 and 18, Announcement 2007-5 Internal Revenue Bulletin
12 395. The required minimum distribution rules of Section
13 401(a)(9)B), other than clause iv thereof of the Internal Revenue
14 Code of 1986, as amended, apply to the transferee IRA; and

15 4. "Direct Rollover" means a payment by the System to the
16 Eligible Retirement Plan specified by the Distributee or, on or
17 after January 1, 2008, to a Roth IRA under Section 408A of the
18 Internal Revenue Code of 1986, as amended, as specified by the
19 Distributee, assuming the Distributee otherwise meets the Roth IRA
20 requirements.

21 C. At least thirty (30) days before and, effective January 1,
22 2007, not more than one hundred eighty (180) days before the date of
23 distribution, the Distributee must be provided with a notice of

1 rights which satisfies Section 402(f) of the Internal Revenue Code
2 of 1986, as amended, as to rollover options and tax effects. Such
3 distribution may commence less than thirty (30) days after the
4 notice is given, provided that:

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

9 2. The Distributee, after receiving the notice, affirmatively
10 elects a distribution.

11 SECTION 4. This act shall become effective July 1, 2008.

12 SECTION 5. It being immediately necessary for the preservation
13 of the public peace, health and safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

16 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated
17 2-21-08 - DO PASS, As Amended and Coauthored.