

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB830 _____
_____ Of the printed Bill
Page _____ Section _____ Lines _____
_____ Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Dan Kirby _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 52nd Legislature (2009)

PROPOSED COMMITTEE
SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 830

By: Brown of the Senate

and

Kirby of the House

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to retirement; amending 11 O.S. 2001, Sections 50-101, as last amended by Section 1, Chapter 137, O.S.L. 2003, 50-114, as last amended by Section 2, Chapter 152, O.S.L. 2007, 50-114.1, as last amended by Section 5, Chapter 177, O.S.L. 2008, Section 4, Chapter 152, O.S.L. 2007, 50-115, as last amended by Section 6, Chapter 152, O.S.L. 2007 and 50-128, as last amended by Section 4, Chapter 137, O.S.L. 2005 (11 O.S. Supp. 2008, Sections 50-101, 50-114, 50-114.1, 50-114.3, 50-115 and 50-128), which relate to the Oklahoma Police Pension and Retirement System; modifying definition; updating statutory citation; specifying that certain limitation is not applicable to certain members; clarifying requirements for certain accounts or annuities; updating statutory citation; allowing certain survivors to be entitled to certain additional benefits; amending 47 O.S. 2001, Sections 2-300, as last amended by Section 7, Chapter 177, O.S.L. 2008, 2-303, 2-305, as last amended by Section 7, Chapter 152, O.S.L. 2007, Section 9, Chapter 152, O.S.L. 2007, 2-305.4, as last amended by Section 10, Chapter 177, O.S.L. 2008 and 2-307, as last amended by Section 11, Chapter 177, O.S.L. 2008 (47 O.S. Supp. 2008, Sections 2-300, 2-305, 2-305.1B, 2-305.4 and 2-307), which relate to the Oklahoma Law Enforcement Retirement System; modifying definition; updating statutory citation; modifying reference to Board of

1 Trustees; providing for service by designee;
2 specifying that certain limitation is not applicable
3 to certain members; clarifying requirements for
4 certain accounts or annuities; allowing certain
5 survivors to be entitled to certain additional
6 benefits; and declaring an emergency.

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

7 SECTION 1. AMENDATORY 11 O.S. 2001, Section 50-101, as
8 last amended by Section 1, Chapter 137, O.S.L. 2003 (11 O.S. Supp.
9 2008, Section 50-101), is amended to read as follows:

10 Section 50-101. As used in this article:

11 1. "System" means the Oklahoma Police Pension and Retirement
12 System and all predecessor municipal Police Pension and Retirement
13 Systems;

14 2. "Article" means Article 50 of this title;

15 3. "State Board" means the Oklahoma Police Pension and
16 Retirement Board;

17 4. "Fund" means the Oklahoma Police Pension and Retirement
18 Fund;

19 5. "Officer" means any duly appointed and sworn full-time
20 officer of the regular police department of a municipality whose
21 duties are to preserve the public peace, protect life and property,
22 prevent crime, serve warrants, enforce all laws and municipal
23 ordinances of this state, and any political subdivision thereof, and
24 who is authorized to bear arms in the execution of such duties;

1 6. "Member" means all eligible officers of a participating
2 municipality and any person hired by a participating municipality
3 who is undergoing police training to become a permanent police
4 officer of the municipality. Effective July 1, 1987, a member does
5 not include a "leased employee" as defined under Section 414(n)(2)
6 of the Internal Revenue Code of 1986, as amended. Effective July 1,
7 1999, any individual who agrees with the participating municipality
8 that the individual's services are to be performed as a leased
9 employee or an independent contractor shall not be a member
10 regardless of any classification as a common law employee by the
11 Internal Revenue Service or any other governmental agency, or any
12 court of competent jurisdiction. A member shall include eligible
13 commissioned officers of the Oklahoma State Bureau of Narcotics and
14 Dangerous Drugs Control, the Oklahoma State Bureau of Investigation,
15 and the Alcoholic Beverage Laws Enforcement Commission who elect to
16 participate in the System pursuant to Section 50-111.5 of this
17 title;

18 7. "Normal retirement date" means the date at which the member
19 is eligible to receive the unreduced payments of the member's
20 accrued retirement benefit. Such date shall be the first day of the
21 month coinciding with or following the date the member completes
22 twenty (20) years of credited service. If the member's employment
23 continues past the normal retirement date of the member, the actual
24 retirement date of the member shall be the first day of the month

1 after the member terminates employment with more than twenty (20)
2 years of credited service;

3 8. "Credited service" means the period of service used to
4 determine the eligibility for and the amount of benefits payable to
5 a member. Credited service shall consist of the period during which
6 the member participated in the System or the predecessor municipal
7 systems as an active employee in an eligible membership
8 classification, plus any service prior to the establishment of the
9 predecessor municipal systems which was credited under the
10 predecessor municipal systems or credited service granted by the
11 State Board;

12 9. "Participating municipality" means a municipality which is
13 making contributions to the System on behalf of its officers. The
14 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the
15 Oklahoma State Bureau of Investigation, and the Alcoholic Beverage
16 Laws Enforcement Commission shall be treated in the same manner as a
17 participating municipality only regarding those members who elect to
18 participate in the System pursuant to Section 50-111.5 of this
19 title;

20 10. "Permanent total disability" means incapacity due to
21 accidental injury or occupational disease, to earn any wages in the
22 employment for which the member is physically suited and reasonably
23 fitted through education, training or experience. Further, the
24 member must be declared one hundred percent (100%) impaired as

1 defined by the "American Medical Association's Guides to the
2 Evaluation of Permanent Impairment" on the basis of a physical
3 medical examination by a physician licensed to practice medicine in
4 this state, as selected by the State Board;

5 11. "Permanent partial disability" means permanent disability
6 which is less than permanent total disability as defined in this
7 section. The member must be declared no greater than ninety-nine
8 percent (99%) impaired as defined by the "American Medical
9 Association's Guides to the Evaluation of Permanent Impairment" on
10 the basis of a physical medical examination by a physician licensed
11 to practice medicine in this state, as selected by the State Board;

12 12. "Permanent in-line disability" means incapacity to earn any
13 wages as a certified, commissioned police officer due to accidental
14 injury or occupational disease, incurred while in, and in
15 consequence of, the performance of duty as an officer;

16 13. "Beneficiary" means a member's surviving spouse or any
17 surviving children, including biological and adopted children, at
18 the time of the member's death. The surviving spouse must have been
19 married to the member for the thirty (30) continuous months
20 immediately preceding the member's death, provided a surviving
21 spouse of a member who died while in, and as a consequence of, the
22 performance of the member's duty for a participating municipality,
23 shall not be subject to the thirty-month marriage requirement for
24 survivor benefits. A surviving child of a member shall be a

1 beneficiary until reaching eighteen (18) years of age or twenty-two
2 (22) years of age if the child is enrolled full time and regularly
3 attending a public or private school or any institution of higher
4 education. Any child adopted by a member after the member's
5 retirement shall be a beneficiary only if the child is adopted by
6 the member for the thirty (30) continuous months preceding the
7 member's death. Any child who is adopted by a member after the
8 member's retirement and such member dies accidentally or as a
9 consequence of the performance of the member's duty as a police
10 officer shall not be subject to the thirty-month adoption
11 requirement. This definition of beneficiary shall be in addition to
12 any other requirement set forth in this article;

13 14. "Executive Director" means the managing officer of the
14 System employed by the State Board;

15 15. "Eligible employer" means any municipality with a municipal
16 police department;

17 16. "Entry date" means the date as of which an eligible
18 employer joins the System. The first entry date pursuant to this
19 article shall be January 1, 1981;

20 17. "Final average salary" means the average paid base salary
21 of the member for normally scheduled hours over the highest salaried
22 thirty (30) consecutive months of the last sixty (60) months of
23 credited service.

24

- 1 a. Base salary shall not include payment for accumulated
2 sick and annual leave upon termination of employment,
3 severance pay or any uniform allowances. Provided,
4 for purposes of determining the normal disability
5 benefit, final average salary shall be based on the
6 member's total service if less than thirty (30)
7 months. Base salary shall include any amount of
8 elective salary reduction under Section 457 of the
9 Internal Revenue Code of 1986, as amended, and any
10 amount of nonelective salary reduction under Section
11 414(h) of the Internal Revenue Code of 1986, as
12 amended. Effective January 1, 1988, base salary shall
13 include any amount of elective salary reduction under
14 Section 125 of the Internal Revenue Code of 1986, as
15 amended. Effective July 1, 1998, gross salary shall
16 include any amount of elective salary reduction not
17 includable in the gross income of the member under
18 Section 132(f)(4) of the Internal Revenue Code of
19 1986, as amended. Only salary on which required
20 contributions have been made may be used in computing
21 the final average salary.
- 22 b. In addition to other applicable limitations, and
23 notwithstanding any other provision to the contrary,
24 for plan years beginning on or after July 1, 2002, the

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

22 c. For plan years beginning on or after July 1, 2002, any
23 reference in the System to the annual compensation
24 limit under Section 401(a)(17) of the Internal Revenue

1 Code of 1986, as amended, shall mean the EGTRRA annual
2 compensation limit set forth in this provision.

3 d. Effective January 1, 2008, base salary shall also
4 include base salary, as described above, but paid by
5 the later of two and one-half (2 1/2) months after a
6 member's severance from employment or the end of the
7 plan year that includes the date the member terminated
8 employment, if it is a payment that, absent a
9 severance from employment, would have been paid to the
10 member while the member continued in employment with
11 the participating municipality.

12 e. Effective January 1, 2008, any payments not described
13 above shall not be considered base salary if paid
14 after severance from employment, even if they are paid
15 by the later of two and one-half (2 1/2) months after
16 the date of severance from employment or the end of
17 the plan year that includes the date of severance from
18 employment, except payments to an individual who does
19 not currently perform services for the participating
20 municipality by reason of qualified military service
21 within the meaning of Section 414(u)(5) of the
22 Internal Revenue Code of 1986, as amended, to the
23 extent these payments do not exceed the amounts the
24 individual would have received if the individual had

1 continued to perform services for the participating
2 municipality rather than entering qualified military
3 service.

4 f. Effective January 1, 2008, back pay, within the
5 meaning of Section 1.415(c)-2(g)(8) of the Income Tax
6 Regulations, shall be treated as base salary for the
7 plan year to which the back pay relates to the extent
8 the back pay represents wages and compensation that
9 would otherwise be included in this definition.

10 g. Effective for years beginning after December 31, 2008,
11 base salary shall also include differential wage
12 payments under Section 414(u)(12) of the Internal
13 Revenue Code of 1986, as amended;

14 18. "Accrued retirement benefit" means two and one-half percent
15 (2 1/2%) of the member's final average salary multiplied by the
16 member's years of credited service not to exceed thirty (30) years;

17 19. "Normal disability benefit" means two and one-half percent
18 (2 1/2%) of the member's final average salary multiplied by twenty
19 (20) years;

20 20. "Limitation year" means the year used in applying the
21 limitations of Section 415 of the Internal Revenue Code of 1986, as
22 amended, which year shall be the calendar year;

23 21. "Paid base salary" means, effective May 1, 2002, all
24 compensation that shall include longevity, educational allowances,

1 and normal compensation paid on a regularly scheduled pay period of
2 which said pay period shall include holidays, annual leave and sick
3 leave. Paid base salary shall not include overtime, shall not
4 include payment for accumulated sick and annual leave upon
5 termination of employment, and shall not include any uniform
6 allowance or any other compensation for reimbursement of out-of-
7 pocket expenses; and

8 22. "Actuarial equivalent" means equality in value of the
9 aggregate amounts expected to be received based on interest rate and
10 mortality assumptions set by the State Board, in a manner that
11 precludes employer discretion, and based upon recommendations from
12 independent professional advisors, and which shall be published
13 annually in the actuarial report.

14 SECTION 2. AMENDATORY 11 O.S. 2001, Section 50-114, as
15 last amended by Section 2, Chapter 152, O.S.L. 2007 (11 O.S. Supp.
16 2008, Section 50-114), is amended to read as follows:

17 Section 50-114. A. The State Board is hereby authorized to pay
18 out of funds in the System a monthly service pension to any member
19 eligible as hereinafter provided, not exceeding in any event the
20 amount of money in such funds and not exceeding in any event the
21 accrued retirement benefit for such member, except as provided for
22 herein. In order for a member to be eligible for such service
23 pension the following requirements must be complied with:

24

1 1. The member's service with the police department for any
2 participating municipality must have ceased; however, a member may
3 be subsequently reemployed in the position of police chief pursuant
4 to subsection C of Section 50-112 of this title;

5 2. The member must have reached the member's normal retirement
6 date; and

7 3. The member must have complied with any agreement as to
8 contributions by the member and other members to any funds of the
9 System where said agreement has been made as provided by this
10 article; provided, that should a retired member receive disability
11 benefits as provided in this and other sections of this article, the
12 time the retired member is receiving said disability benefits shall
13 count as time on active service if the retired member should be
14 recalled by the Chief of Police from said disability retirement. It
15 shall be necessary before said time shall be counted toward
16 retirement that the retired member make the same contribution as the
17 member would have otherwise made if on active service for the time
18 the retired member was disabled.

19 B. Any member complying with all requirements of this article,
20 who reaches normal retirement date, upon application, shall be
21 retired at the accrued retirement benefit. When a member has served
22 for the necessary number of years and is otherwise eligible, as
23 provided in this article, if such member is discharged without cause
24

1 by the participating municipality, the member shall be eligible for
2 a pension.

3 C. Effective July 1, 1989, in no event shall commencement of
4 distribution of the accrued retirement benefit of a member be
5 delayed beyond April 1 of the calendar year following the later of:

6 1. The calendar year in which the member reaches seventy and
7 one-half (70 1/2) years of age; or

8 2. The actual retirement date of the member.

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

1 D. In the event of the death of any member who has been awarded
2 a retirement benefit or is eligible therefor as provided in this
3 section, such member's beneficiaries shall be paid such retirement
4 benefit. The remaining portion of the member's retirement benefit
5 shall be distributed to the beneficiaries at least as rapidly as
6 under the method of distribution to the member. Effective March 1,
7 1997, if a member to whom a retirement benefit has been awarded or
8 who is eligible therefor dies prior to the date as of which the
9 total amount of retirement benefit paid equals the total amount of
10 the employee contributions paid by or on behalf of the member and
11 the member does not have a surviving beneficiary, the total benefits
12 paid as of the date of the member's death shall be subtracted from
13 the accumulated employee contribution amount and the balance, if
14 greater than zero (0), shall be paid to the member's estate.

15 E. The State Board may review and affirm a member's request for
16 retirement benefits prior to the member's normal retirement date
17 provided that no retirement benefits are paid prior to the normal
18 retirement date.

19 F. A member retired under the provisions of this article may
20 apply to the State Board to have the member's retirement benefits
21 set aside and may make application for disability benefits. Upon
22 approval of the disability benefits, the member would become subject
23 to all provisions of this article pertaining to disability
24 retirement.

1 G. Upon the death of a retired member or a beneficiary, the
2 benefit payment for the month in which the retired member or
3 beneficiary died, if not previously paid, shall be made to the
4 beneficiary of the member or to the member's or beneficiary's estate
5 if there is no beneficiary. Such benefit payment shall be made in
6 an amount equal to a full monthly benefit payment regardless of the
7 day of the month in which the retired member or beneficiary died.

8 H. If the requirements of Section 5 50-114.4 of this ~~act~~ title
9 are satisfied, a member who, by reason of attainment of normal
10 retirement date or age, is separated from service as a public safety
11 officer with the member's participating municipality, may elect to
12 have payment made directly to the provider for qualified health
13 insurance premiums by deduction from his or her monthly pension
14 payment, after December 31, 2006, in accordance with Section 402(1)
15 of the Internal Revenue Code of 1986, as amended.

16 SECTION 3. AMENDATORY 11 O.S. 2001, Section 50-114.1, as
17 last amended by Section 5, Chapter 177, O.S.L. 2008 (11 O.S. Supp.
18 2008, Section 50-114.1), is amended to read as follows:

19 Section 50-114.1 A. Notwithstanding any other provision
20 contained herein to the contrary, the benefits payable to a member
21 from the System provided by employer contributions (including
22 contributions picked up by the employer under Section 414(h) of the
23 Internal Revenue Code of 1986, as amended) shall be subject to the
24 limitations of Section 415 of the Internal Revenue Code of 1986, as

1 amended, in accordance with the provisions of this section. The
2 limitations of this section shall apply in limitation years
3 beginning on or after July 1, 2007, except as otherwise provided
4 below.

5 B. Except as provided below, effective for limitation years
6 ending after December 31, 2001, any accrued retirement benefit
7 payable to a member as an annual benefit as described below shall
8 not exceed One Hundred Sixty Thousand Dollars (\$160,000.00),
9 automatically adjusted under Section 415(d) of the Internal Revenue
10 Code of 1986, as amended, for increases in the cost of living, as
11 prescribed by the Secretary of the Treasury or the Secretary's
12 delegate, effective January 1 of each calendar year and applicable
13 to the limitation year ending with or within such calendar year.
14 The automatic annual adjustment of the dollar limitation in this
15 subsection under Section 415(d) of the Internal Revenue Code of
16 1986, as amended, shall apply to a member who has had a separation
17 from employment.

18 1. The member's annual benefit is a benefit that is payable
19 annually in the form of a straight life annuity. Except as provided
20 below, where a benefit is payable in a form other than a straight
21 life annuity, the benefit shall be adjusted to an actuarially
22 equivalent straight life annuity that begins at the same time as
23 such other form of benefit and is payable on the first day of each
24 month, before applying the limitations of this section. For a

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

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

- 12 a. survivor benefits payable to a surviving spouse under
13 a qualified joint and survivor annuity to the extent
14 such benefits would not be payable if the member's
15 benefit were paid in another form,
- 16 b. benefits that are not directly related to retirement
17 benefits (such as a qualified disability benefit,
18 preretirement incidental death benefits, and
19 postretirement medical benefits), or
- 20 c. the inclusion in the form of benefit of an automatic
21 benefit increase feature, provided the form of benefit
22 is not subject to Section 417(e)(3) of the Internal
23 Revenue Code of 1986, as amended, and would otherwise
24 satisfy the limitations of this section, and the

1 System provides that the amount payable under the form
2 of benefit in any limitation year shall not exceed the
3 limits of this section applicable at the annuity
4 starting date, as increased in subsequent years
5 pursuant to Section 415(d) of the Internal Revenue
6 Code of 1986, as amended. For this purpose, an
7 automatic benefit increase feature is included in a
8 form of benefit if the form of benefit provides for
9 automatic, periodic increases to the benefits paid in
10 that form.

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

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

22 5. Benefit Forms Not Subject to Section 417(e)(3) of the
23 Internal Revenue Code of 1986, as amended: The straight life
24 annuity that is actuarially equivalent to the member's form of

1 benefit shall be determined under this paragraph 5 if the form of
2 the member's benefit is either:

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

8 b. an annuity that decreases during the life of the
9 member merely because of:

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

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

18 c. Limitation Years Beginning Before July 1, 2007. For
19 limitation years beginning before July 1, 2007, the
20 actuarially equivalent straight life annuity is equal
21 to the annual amount of the straight life annuity
22 commencing at the same annuity starting date that has
23 the same actuarial present value as the member's form
24

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

- 3 (1) the interest rate and the mortality table (or
4 other tabular factor), each as set forth in
5 subsection G of Section 50-105.4 of this title
6 for adjusting benefits in the same form; and
7 (2) a five percent (5%) interest rate assumption and
8 the applicable mortality table described in Rev.
9 Rul. 2001-62 for that annuity starting date.

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

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

- 14 (1) the annual amount of the straight life annuity
15 (if any) payable to the member under the System
16 commencing at the same annuity starting date as
17 the member's form of benefit, and
18 (2) the annual amount of the straight life annuity
19 commencing at the same annuity starting date that
20 has the same actuarial present value as the
21 member's form of benefit, computed using a five
22 percent (5%) interest rate assumption and the
23 applicable mortality table described in Rev. Rul.
24 2001-62 for that annuity starting date.

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

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

13 (1) the annual amount of the straight life annuity
14 commencing at the same annuity starting date that
15 has the same actuarial present value as the
16 member's form of benefit, computed using the
17 interest rate and the mortality table (or other
18 tabular factor) each as set forth in subsection G
19 of Section 50-105.4 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 Rev. Rul. 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 (1) 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 Rev. Rul. 2001-62,
22 divided by one and five one-hundredths (1.05).

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

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

- 10 (a) the interest rate and the mortality table
11 (or other tabular factor) each as set forth
12 in subsection G of Section 50-105.4 of this
13 title for adjusting benefits in the same
14 form, and
15 (b) a five and one-half percent (5.5%) interest
16 rate assumption and the applicable mortality
17 table described in Rev. Rul. 2001-62.

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

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

9 (a) the interest rate and mortality table (or
10 other tabular factor) each as set forth in
11 subsection G of Section 50-105.4 of this
12 title for adjusting benefits in the same
13 form,

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

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

4 (ii) the applicable mortality table
5 described in Rev. Rul. 2001-62, 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 (1) plan year which
16 contains the annuity starting date for
17 the distribution and for which the
18 applicable interest rate remains
19 constant (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 Rev. Rul. 2001-62.

3 7. Subject to the adjustment under subsection E of this
4 section, the foregoing limitation shall not be applicable with
5 respect to any member whose annual benefits from the System and
6 under all other defined benefit plans of the participating
7 municipality are less than Ten Thousand Dollars (\$10,000.00) for the
8 year or from any prior year, if such member has not at any time
9 participated in any defined contribution plan maintained by the
10 participating municipality.

11 C. If a member has less than ten (10) years of participation in
12 the System and all predecessor municipal police pension and
13 retirement systems, the dollar limitation otherwise applicable under
14 subsection B of this section shall be multiplied by a fraction, the
15 numerator of which is the number of the years of participation in
16 the System of the member, but never less than one (1), and the
17 denominator of which is ten (10).

18 D. Adjustment of Dollar Limitation for Benefit Commencement
19 Before Age Sixty-two (62) or After Age Sixty-five (65): Effective
20 for benefits commencing in limitation years ending after December
21 31, 2001, the dollar limitation under subsection B of this section
22 shall be adjusted if the annuity starting date of the member's
23 benefit is before age sixty-two (62) or after age sixty-five (65).
24 If the annuity starting date is before age sixty-two (62), the

1 dollar limitation under subsection B of this section shall be
2 adjusted under paragraph 1 of this subsection, as modified by
3 paragraph 3 of this subsection, but subject to paragraph 4 of this
4 subsection. If the annuity starting date is after age sixty-five
5 (65), the dollar limitation under subsection B of this section shall
6 be adjusted under paragraph 2 of this subsection, as modified by
7 paragraph 3 of this subsection.

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

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

24

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

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

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

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

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

- 10 (2) System Has Immediately Commencing Straight Life
11 Annuity Payable at Both Age Sixty-two (62) and
12 the Age of Benefit Commencement. If the annuity
13 starting date for the member's benefit is prior
14 to age sixty-two (62) and occurs in a limitation
15 year beginning on or after July 1, 2007, and the
16 System has an immediately commencing straight
17 life annuity payable at both age sixty-two (62)
18 and the age of benefit commencement, the dollar
19 limitation for the member's annuity starting date
20 is the lesser of the limitation determined under
21 division (1) of subparagraph b of this paragraph
22 and the dollar limitation under subsection B of
23 this 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 immediately commencing
3 straight life annuity under the System at the
4 member's annuity starting date to the annual
5 amount of the immediately commencing straight
6 life annuity under the System at age sixty-two
7 (62), both determined without applying the
8 limitations of this section.

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

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

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

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

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

9 (1) System Does Not Have Immediately Commencing
10 Straight Life Annuity Payable at Both Age Sixty-
11 five (65) and the Age of Benefit Commencement.

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

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

- 10 (2) System Has Immediately Commencing Straight Life
11 Annuity Payable at Both Age Sixty-five (65) and
12 Age of Commencement. If the annuity starting
13 date for the member's benefit is after age sixty-
14 five (65) and occurs in a limitation year
15 beginning on or after July 1, 2007, and the
16 System has an immediately commencing straight
17 life annuity payable at both age sixty-five (65)
18 and the age of benefit commencement, the dollar
19 limitation at the member's annuity starting date
20 is the lesser of the limitation determined under
21 division (1) of subparagraph b of this paragraph
22 and the dollar limitation under subsection B of
23 this 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 age sixty-five (65), both determined without
8 applying the limitations of this section. For
9 this purpose, the adjusted immediately commencing
10 straight life annuity under the System at the
11 member's annuity starting date is the annual
12 amount of such annuity payable to the member,
13 computed disregarding the member's accruals after
14 age sixty-five (65) but including actuarial
15 adjustments even if those actuarial adjustments
16 are used to offset accruals; and the adjusted
17 immediately commencing straight life annuity
18 under the System at age sixty-five (65) is the
19 annual amount of such annuity that would be
20 payable under the System to a hypothetical member
21 who is age sixty-five (65) and has the same
22 accrued benefit as the member.

23 3. Notwithstanding the other requirements of this subsection,
24 no adjustment shall be made to the dollar limitation under

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

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

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

22 1. The retirement benefits payable for a limitation year under
23 any form of benefit with respect to such member under this System
24 and under all other defined benefit plans (without regard to whether

1 a plan has been terminated) ever maintained by a participating
2 municipality do not exceed Ten Thousand Dollars (\$10,000.00)
3 multiplied by a fraction:

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

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

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

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

1 changes or cost-of-living adjustments occurring after July 1, 1982,
2 as to the 1982 accrued amount, and May 5, 1986, as to the 1986
3 accrued amount.

4 G. Effective for years beginning after December 31, 1997, if a
5 member purchases service pursuant to Section 50-111.2 and Section
6 50-111.4 of this title, which qualifies as "permissive service
7 credit" pursuant to Section 415(n) of the Internal Revenue Code of
8 1986, as amended, the limitations of Section 415 of the Internal
9 Revenue Code of 1986, as amended, may be met by either:

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

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

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

22 I. For limitation years beginning on or after January 1, 1995,
23 subsection C of this section, paragraph 1 of subsection D of this
24 section, and the proration provided under subparagraphs a and b of

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

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

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

12 SECTION 4. AMENDATORY Section 4, Chapter 152, O.S.L.
13 2007 (11 O.S. Supp. 2008, Section 50-114.3), is amended to read as
14 follows:

15 Section 50-114.3 A. An individual who has been designated,
16 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of
17 1986, as amended, as the beneficiary of a deceased member and who is
18 not the surviving spouse of the member, may elect, in accordance
19 with Section 402(c)(11) of the Internal Revenue Code of 1986, as
20 amended, and at the time and in the manner prescribed by the State
21 Board, to have a direct trustee-to-trustee transfer of any portion
22 of such beneficiary's lump-sum distribution from the System after
23 December 31, 2006, made to an individual retirement account or
24 individual retirement annuity (other than an endowment contract)

1 described in Section 408(a) or (b) of the Internal Revenue Code of
2 1986, as amended (IRA), that is established on behalf of such
3 designated individual. If such transfer is made, then:

4 1. The transfer is treated as an eligible rollover distribution
5 for purposes of Section 402(c)(11) of the Internal Revenue Code of
6 1986, as amended;

7 2. The transferee IRA is treated as an inherited individual
8 retirement account or an inherited individual retirement annuity
9 (within the meaning of Section 408(d)(3)(C) of the Internal Revenue
10 Code of 1986, as amended), and must be titled in the name of the
11 deceased member, for the benefit of the beneficiary; and

12 3. 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.

15 B. A trust maintained for the benefit of one or more designated
16 beneficiaries shall be treated in the same manner as a trust
17 designated beneficiary.

18 C. The State Board shall promulgate such rules as are necessary
19 to implement the provisions of this section.

20 SECTION 5. AMENDATORY 11 O.S. 2001, Section 50-115, as
21 last amended by Section 6, Chapter 152, O.S.L. 2007 (11 O.S. Supp.
22 2008, Section 50-115), is amended to read as follows:

23 Section 50-115. A. The State Board is authorized to pay a
24 disability benefit to a member of the System or a pension to the

1 beneficiaries of such member eligible as hereinafter provided, not
2 exceeding the accrued retirement benefit of the member, except as
3 otherwise provided in this article. Such disability benefit shall
4 be payable immediately upon determination of eligibility. Any
5 preexisting condition identified at the time of any initial or
6 subsequent membership shall be used to offset the percentage of
7 impairment to the whole person in determining any disability
8 benefit. Once the initial disability benefit has been awarded by
9 the Board on the basis of the percentage of impairment to the whole
10 person, the member shall have no further recourse to increase the
11 awarded percentage of impairment.

12 B. In order for any member to be eligible for any disability
13 benefit, or the member's beneficiaries to be eligible for a pension,
14 the member must have complied with any agreement as to contributions
15 by the member and other members to any funds of the System where
16 said agreement has been made as provided by this article; and the
17 State Board must find:

18 1. That the member incurred a permanent total disability or a
19 permanent partial disability or died while in, and in consequence
20 of, the performance of duty as an officer; or

21 2. That such member has served ten (10) years and incurred a
22 permanent total disability or a permanent partial disability or has
23 died from any cause.

24

1 C. In the event of the death of any member who has been awarded
 2 a disability benefit or is eligible therefor as provided in this
 3 article, the member's beneficiary shall be paid the benefit.

4 D. As of the date of determination by the State Board that a
 5 member is physically or mentally disabled and that the disability is
 6 permanent and partial or permanent and total as was incurred while
 7 in, and in consequence of, the performance or duty as an officer,
 8 the member shall be awarded a disability benefit on the basis of the
 9 percentage of impairment to the whole person, as defined by the most
 10 current standards of the impairment as outlined in the "American
 11 Medical Association's Guides to the Evaluation of Permanent
 12 Impairment," as provided in the following table:

13	1% to 49% impairment to whole person =	50% of the normal
14		disability benefit
15	50% to 74% impairment to whole person =	75% of the normal
16		disability benefit
17	75% to 100% impairment to whole person =	100% of the normal
18		disability benefit.

19 E. If the participating municipality denies a disabled member
 20 the option of continuing employment instead of retiring on a
 21 disability pension, then the burden of proof rests with the
 22 participating municipality to show cause to the State Board that
 23 there is no position as a sworn officer within the police department
 24 of that municipality which the member can fill.

1 F. Upon determination by the State Board that a member is
2 physically or mentally disabled and that the disability is permanent
3 and total and that the member has completed ten (10) years of
4 credited service and is disabled by any cause, the member shall
5 receive a disability benefit on the basis of the member's accrued
6 retirement benefit.

7 G. Upon determination by the State Board that a member is
8 physically or mentally disabled and that the disability is permanent
9 and partial and that the member has completed ten (10) years of
10 credited service as a member and is disabled from any cause, the
11 member shall be awarded a disability benefit on the basis of the
12 member's years of credited service as a member and the percentage of
13 impairment to the whole person, as defined by the most current
14 standards of the impairment as outlined in the "American Medical
15 Association's Guides to the Evaluation of Permanent Impairment", on
16 the basis of the following table:

17 1% to 24% impaired = 25% of accrued retirement benefit
18 25% to 49% impaired = 50% of accrued retirement benefit
19 50% to 74% impaired = 75% of accrued retirement benefit
20 75% to 99% impaired = 90% of accrued retirement benefit.

21 H. Before making a finding as to the disability of a member,
22 the State Board shall require that, if the member is able, the
23 member shall make a certificate as to the disability which shall be
24 subscribed and sworn to by the member. It shall also require a

1 certificate as to such disability to be made by some physician
2 licensed to practice in this state as selected by the State Board.
3 The State Board may require other evidence of disability before
4 making the disability benefit. The salary of any such member shall
5 continue while the member is so necessarily confined to such
6 hospital bed or home and necessarily requires medical care or
7 professional nursing on account of such sickness or disability for a
8 period of not more than six (6) months, after which said period the
9 other provisions of this article may apply. The State Board, in
10 making disability benefits, shall act upon the written request of
11 the member or without such request, if it deem it for the good of
12 the police department. Any disability benefits shall cease when the
13 member receiving same shall be restored to active service at a
14 salary not less than three-fourths (3/4) of the member's average
15 monthly salary.

16 I. Any member of a police department of any municipality who,
17 in the line of duty, has been exposed to hazardous substances,
18 including but not limited to chemicals used in the manufacture of a
19 controlled dangerous substance or chemicals resulting from the
20 manufacture of a controlled dangerous substance, or to blood-borne
21 pathogens and who is later disabled from a condition that was the
22 result of such exposure and that was not revealed by the physical
23 examination passed by the member upon entry into the System shall be
24 presumed to have incurred such disability while performing the

1 officer's duties unless the contrary is shown by competent evidence.
2 The presumption created by this subsection shall have no application
3 whatever to any workers' compensation claim or claims, and it shall
4 not be applied or be relied upon in any way in workers' compensation
5 proceedings. All compensation or benefits due to any member
6 pursuant to the presumption created by this subsection shall be paid
7 solely by the system.

8 J. If the requirements of Section 5 50-114.4 of this ~~act~~ title
9 are satisfied, a member who, by reason of disability, is separated
10 from service as a public safety officer with the member's
11 participating municipality, may elect to have payment made directly
12 to the provider for qualified health insurance premiums by deduction
13 from his or her monthly disability benefit, after December 31, 2006,
14 in accordance with Section 402(1) of the Internal Revenue Code of
15 1986, as amended.

16 SECTION 6. AMENDATORY 11 O.S. 2001, Section 50-128, as
17 last amended by Section 4, Chapter 137, O.S.L. 2005 (11 O.S. Supp.
18 2008, Section 50-128), is amended to read as follows:

19 Section 50-128. A. Any member who has heretofore left the
20 Police Department qualifying under this article to enter the
21 military service of the United States during World War II and who
22 returned to said department on or before July 1, 1947, or the Korean
23 conflict and who returned to said department on or before January 1,
24 1956, shall receive credit for such time in military service without

1 having made contribution to the System; and any member who has
2 heretofore left, or hereafter may leave said department because of
3 involuntary conscription into the military services of the United
4 States at any time and who returns to said department within ninety
5 (90) days after the member's release from such involuntary service
6 shall receive credit for such time in said military service on the
7 Police Department without having made contribution to the System
8 only for that period that is involuntary; voluntary enlistments and
9 voluntary extensions of military service being herewith specifically
10 excluded for retirement credit.

11 B. A member who began participation in the System prior to July
12 1, 2003, and who retires on or after July 1, 1998, shall be entitled
13 to prior service credit, not to exceed five (5) years, for those
14 periods of military service on active duty prior to membership in
15 the Oklahoma Police Pension and Retirement System. All members who
16 initially begin participation with the System after June 30, 2003,
17 may acquire prior military service credit for a maximum of five (5)
18 years of such service credit upon payment of the actuarial cost of
19 such service in the manner prescribed by and subject to all of the
20 requirements of Section 50-111.4 of this title. For members of the
21 System hired or rehired on or after July 1, 2003, if the military
22 service credit authorized by this subsection is used to compute the
23 retirement benefit of the member and the member retires from the
24 System, such military service credit shall not be used to compute

1 the retirement benefit in any other retirement system created
2 pursuant to the Oklahoma Statutes and the member may receive credit
3 for such service only in the retirement system from which the member
4 first retires.

5 For purposes of this subsection, "military service" means
6 service in the Armed Forces of the United States by honorably
7 discharged persons during the following time periods, as reflected
8 on such person's Defense Department Form 214, as follows:

9 1. During the following periods, including the beginning and
10 ending dates, and only for the periods served, from:

11 a. April 6, 1917, to November 11, 1918, commonly referred
12 to as World War I,

13 b. September 16, 1940, to December 7, 1941, as a member
14 of the 45th Division,

15 c. December 7, 1941, to December 31, 1946, commonly
16 referred to as World War II,

17 d. June 27, 1950, to January 31, 1955, commonly referred
18 to as the Korean Conflict or the Korean War,

19 e. February 28, 1961, to May 7, 1975, commonly referred
20 to as the Vietnam era, except that:

21 (1) for the period from February 28, 1961, to August
22 4, 1964, military service shall only include
23 service in the Republic of Vietnam during that
24 period, and

1 (2) for purposes of determining eligibility for
2 education and training benefits, such period
3 shall end on December 31, 1976, or

4 f. August 1, 1990, to December 31, 1991, commonly
5 referred to as the Gulf War, the Persian Gulf War, or
6 Operation Desert Storm, but excluding any person who
7 served on active duty for training only, unless
8 discharged from such active duty for a service-
9 connected disability;

10 2. During a period of war or combat military operation other
11 than a conflict, war or era listed in paragraph 1 of this
12 subsection, beginning on the date of Congressional authorization,
13 Congressional resolution, or Executive Order of the President of the
14 United States, for the use of the Armed Forces of the United States
15 in a war or combat military operation, if such war or combat
16 military operation lasted for a period of ninety (90) days or more,
17 for a person who served, and only for the period served, in the area
18 of responsibility of the war or combat military operation, but
19 excluding a person who served on active duty for training only,
20 unless discharged from such active duty for a service-connected
21 disability, and provided that the burden of proof of military
22 service during this period shall be with the member, who must
23 present appropriate documentation establishing such service.

1 C. An eligible member pursuant to subsection B of this section
2 shall include only those persons who shall have served during the
3 times or in the areas prescribed thereunder and only if such person
4 provides appropriate documentation in such time and manner as
5 required by the System to establish such military service prescribed
6 in this section, or for service pursuant to division (1) of
7 subparagraph e of paragraph 1 of subsection B of this section, those
8 persons who were awarded service medals, as authorized by the United
9 States Department of Defense as reflected in the veteran's Defense
10 Department Form 214, related to the Vietnam Conflict for service
11 prior to August 5, 1964. The provisions of subsection B of this
12 section shall include military retirees, whose retirement was based
13 only on active service, that have been rated as having twenty
14 percent (20%) or greater service-connected disability by the
15 Veterans Administration or the Armed Forces of the United States.

16 D. Effective December 12, 1994, a leave of absence on account
17 of a period of "qualified military service" in the uniformed
18 services of the United States (within the meaning of Section
19 414(u) (5) of the Internal Revenue Code of 1986), followed by a
20 return to the service of the participating municipality within
21 ninety (90) days after the completion of the period of service,
22 shall constitute credited service. Notwithstanding any provision
23 herein to the contrary, ~~contributions:~~
24

1 1. Contributions, benefits and service credit with respect to
2 qualified military service shall be provided in accordance with
3 Section 414(u) of the Internal Revenue Code of 1986, which is in
4 accordance with the Uniformed Services Employment and Reemployment
5 Rights Act of 1994, as amended (USERRA). The municipality's
6 contributions to the System for a member covered by USERRA are due
7 when such a member makes up his or her contributions that were
8 missed due to his or her qualified military service; and

9 2. Effective January 1, 2007, if any member dies while
10 performing qualified military service, the survivors of the member
11 are entitled to any additional benefits other than benefit accruals
12 relating to the period of qualified military service provided under
13 the System had the member resumed and then terminated employment on
14 account of death.

15 SECTION 7. AMENDATORY 47 O.S. 2001, Section 2-300, as
16 last amended by Section 7, Chapter 177, O.S.L. 2008 (47 O.S. Supp.
17 2008, Section 2-300), is amended to read as follows:

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

- 19 1. "System" means the Oklahoma Law Enforcement Retirement
20 System;
21 2. "Act" means Section 2-300 et seq. of this title;
22 3. "Board" means the Oklahoma Law Enforcement Retirement Board
23 of the System;

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

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

4 6. a. "Member" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 In addition to other applicable limitations, and notwithstanding
23 any other provision to the contrary, for plan years beginning on or
24 after July 1, 2002, the annual gross salary of each "Noneligible

1 Member" taken into account under the System shall not exceed the
2 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")
3 annual salary limit. The EGTRRA annual salary limit is Two Hundred
4 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for
5 increases in the cost of living in accordance with Section
6 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The
7 annual salary limit in effect for a calendar year applies to any
8 period, not exceeding twelve (12) months, over which salary is
9 determined ("determination period") beginning in such calendar year.
10 If a determination period consists of fewer than twelve (12) months,
11 the EGTRRA salary limit will be multiplied by a fraction, the
12 numerator of which is the number of months in the determination
13 period, and the denominator of which is twelve (12). For purposes
14 of this section, a "Noneligible Member" is any member who first
15 became a member during a plan year commencing on or after July 1,
16 1996.

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

21 Effective January 1, 2008, gross salary for a plan year shall
22 also include gross salary, as described above, but paid by the later
23 of two and one-half (2 1/2) months after a member's severance from
24 employment or the end of the plan year that includes the date the

1 member terminated employment, if it is a payment that, absent a
2 severance from employment, would have been paid to the member while
3 the member continued in employment with the employer.

4 Effective January 1, 2008, any payments not described above
5 shall not be considered gross salary if paid after severance from
6 employment, even if they are paid by the later of two and one-half
7 (2 1/2) months after the date of severance from employment or the
8 end of the plan year that includes the date of severance from
9 employment, except payments to an individual who does not currently
10 perform services for the employer by reason of qualified military
11 service within the meaning of Section 414(u) (5) of the Internal
12 Revenue Code of 1986, as amended, to the extent these payments do
13 not exceed the amounts the individual would have received if the
14 individual had continued to perform services for the employer rather
15 than entering qualified military service.

16 Effective January 1, 2008, back pay, within the meaning of
17 Section 1.415(c)-2(g) (8) of the Income Tax Regulations, shall be
18 treated as gross salary for the plan year to which the back pay
19 relates to the extent the back pay represents wages and compensation
20 that would otherwise be included in this definition.

21 Effective for years beginning after December 31, 2008, gross
22 salary shall also include differential wage payments under Section
23 414(u) (12) of the Internal Revenue Code of 1986, as amended;

1 10. "Credited service" means the period of service used to
2 determine the amount of benefits payable to a member. Credited
3 service shall consist of the period during which the member
4 participated in the System or the predecessor Plan as an active
5 employee in an eligible membership classification, plus any service
6 prior to the establishment of the predecessor Plan which was
7 credited under the predecessor Plan and for law enforcement officers
8 and criminalists of the Oklahoma State Bureau of Investigation and
9 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
10 who became members of the System on July 1, 1980, any service
11 credited under the Oklahoma Public Employees Retirement System as of
12 June 30, 1980, and for members of the Communications and Lake Patrol
13 Divisions of the Oklahoma Department of Public Safety, who became
14 members of the System on July 1, 1981, any service credited under
15 the predecessor Plan or the Oklahoma Public Employees Retirement
16 System as of June 30, 1981, and for law enforcement officers of the
17 Alcoholic Beverage Laws Enforcement Commission who became members of
18 the System on July 1, 1982, any service credited under the Oklahoma
19 Public Employees Retirement System as of June 30, 1982, and for park
20 rangers of the Oklahoma Tourism and Recreation Department who became
21 members of the System on July 1, 1985, any service credited under
22 the Oklahoma Public Employees Retirement System as of June 30, 1985,
23 and for inspectors of the Oklahoma State Board of Pharmacy who
24 became members of the System on July 1, 1986, any service credited

1 under the Oklahoma Public Employees Retirement System as of June 30,
2 1986, for law enforcement officers of the Oklahoma Capitol Patrol
3 Division of the Department of Public Safety who became members of
4 the System effective July 1, 1993, any service credited under the
5 Oklahoma Public Employees Retirement System as of June 30, 1993, and
6 for all commissioned officers in the Gunsmith/Ammunition Reloader
7 Division of the Department of Public Safety who became members of
8 the System effective July 1, 1994, any service credited under the
9 Oklahoma Public Employees Retirement System as of June 30, 1994, and
10 for the park managers or park supervisors of the Oklahoma Tourism
11 and Recreation Department who were employed in such a position prior
12 to July 1, 1985, and who elect to become members of the System
13 effective September 1, 1996, any service transferred pursuant to
14 subsection C of Section 2-309.6 of this title and any service
15 purchased pursuant to subsection B of Section 2-307.2 of this title.
16 Effective August 5, 1993, an authorized leave of absence shall
17 include a period of absence pursuant to the Family and Medical Leave
18 Act of 1993;

19 11. "Disability" means a physical or mental condition which, in
20 the judgment of the Board, totally and presumably permanently
21 prevents the member from engaging in the usual and customary duties
22 of the occupation of the member and thereafter prevents the member
23 from performing the duties of any occupation or service for which
24 the member is qualified by reason of training, education or

1 experience. A person is not under a disability when capable of
2 performing a service to the employer, regardless of occupation,
3 providing the salary of the employee is not diminished thereby;

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

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

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

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

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

1 17. "Beneficiary" means the individual designated by the member
2 on a beneficiary designation form supplied by the Oklahoma Law
3 Enforcement Retirement System, or if there is no designated
4 beneficiary or if the designated beneficiary predeceases the member,
5 the estate of the member. If the member's spouse is not designated
6 as the sole primary beneficiary, the member's spouse must sign a
7 consent.

8 SECTION 8. AMENDATORY 47 O.S. 2001, Section 2-303, is
9 amended to read as follows:

10 Section 2-303. A. There shall be an "Oklahoma Law Enforcement
11 Retirement Board" to administer the fund of the System. The Board
12 shall be composed of the ~~Assistant~~ Commissioner of Public Safety or
13 his designee, the Director of State Finance or his designee, three
14 (3) members to be appointed by the Governor one of whom shall be a
15 retired member of the System, one (1) member to be appointed by the
16 Speaker of the House of Representatives, one (1) member to be
17 appointed by the President Pro Tempore of the Senate, two (2)
18 members of the Highway Patrol Division and one (1) member of the
19 Communication Division of the Department of Public Safety, one (1)
20 member of the Oklahoma State Bureau of Investigation, one (1) member
21 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
22 Control and one (1) member of the Alcoholic Beverage Laws
23 Enforcement Commission, elected by and from the membership of the
24 System. The terms of elected members of the Board now serving shall

1 expire on June 30, 1980. The present Board shall conduct an
2 election for the selection of elected members of the Board, prior to
3 the operative date of this act. One member of the Oklahoma Highway
4 Patrol and the member of the Oklahoma State Bureau of Investigation,
5 initially elected, shall serve through June 30, 1982, the member of
6 the Oklahoma Alcoholic Beverage Control Board, initially elected,
7 shall serve through June 30, 1984, and the remaining elected members
8 shall serve through June 30, 1983. Members subsequently elected
9 shall serve for terms of three (3) years.

10 B. 1. The initial term of office of the member appointed to
11 the Board by the Speaker of the House of Representatives and the
12 member appointed to the Board by the President Pro Tempore of the
13 Senate shall expire on January 3, 1989. The members thereafter
14 appointed by the Speaker of the House of Representatives and by the
15 President Pro Tempore of the Senate shall serve terms of office of
16 four (4) years.

17 2. The member appointed by the Governor serving on the Board on
18 the operative date of this act shall serve the remainder of the
19 unexpired term of the member. The member appointed by the Governor
20 to fill that position after the expiration of the term of office of
21 the member serving on the operative date of this act shall serve
22 through January 13, 1991. The members thereafter appointed by the
23 Governor shall serve a term of office of four (4) years which is
24

1 coterminous with the term of office of the office of the appointing
2 authority.

3 3. The initial term of office of the two additional
4 appointments to the Board by the Governor shall expire on January
5 14, 1991. The members thereafter appointed by the Governor shall
6 serve terms of office of four (4) years which are coterminous with
7 the term of office of the office of the appointing authority.

8 4. Vacancies shall be filled for the unexpired term of office
9 in the same manner as the original appointment was made.

10 C. The members appointed to the Board by the Speaker of the
11 House of Representatives, by the President Pro Tempore of the Senate
12 and by the Governor or a member who is a designee of an ex officio
13 member of the Board shall:

14 1. Have demonstrated professional experience in investment or
15 funds management, public funds management, public or private pension
16 fund management or retirement system management; or

17 2. Have demonstrated experience in the banking profession and
18 have demonstrated professional experience in investment or funds
19 management; or

20 3. Be licensed to practice law in this state and have
21 demonstrated professional experience in commercial matters; or

22 4. Be licensed by the Oklahoma State Board of Public
23 Accountancy to practice in this state as a public accountant or a
24 certified public accountant.

1 The appointing authorities, in making appointments that conform
2 to the requirements of this subsection, shall give due consideration
3 to balancing the appointments among the criteria specified in
4 paragraphs 1 through 4 of this subsection.

5 D. No member of the Board shall be a lobbyist registered in
6 this state as provided by law.

7 E. Notwithstanding any of the provisions of this section to the
8 contrary, any person serving as an appointed member of the Board on
9 the operative date of this act shall be eligible for reappointment
10 when the term of office of the member expires.

11 F. Every two (2) years, one of the members of the Board shall
12 be selected by the Board as president and another member as
13 secretary of the Board.

14 G. Any member of the Board elected by the membership of the
15 System may be recalled for cause at a special election held for that
16 purpose by the members of the System. Such an election shall be
17 called and held by the president and secretary of the Board upon a
18 written request therefor signed by not less than one-third (1/3) of
19 the members of the System and shall be held pursuant to notice given
20 to all members of the System stating the date for such election
21 which shall not be less than ten (10) days from the date of the
22 issuance of such notice. All members of the System shall be
23 entitled to vote by secret ballot and, if two-thirds (2/3) or more
24 of the membership of the System vote for his recall, the elected

1 member of the Board designated in such request, notice and secret
2 ballot shall cease to be a member of the Board and the president and
3 secretary of the Board shall call and hold a special election by the
4 members of the System to fill the remainder of the term of the
5 member so recalled.

6 H. The Oklahoma Law Enforcement Retirement System shall retain
7 an Executive Director and shall establish the Executive Director's
8 compensation. The Executive Director shall be the managing and
9 administrative officer of the System and as such shall have charge
10 of the office, records and supervision and direction of the
11 employees of the System. The Executive Director shall be
12 responsible for the overall operations and to perform duties
13 specified in Section 2-300 of this title and as specified by the
14 Board. The Executive Director shall be subject to the policy
15 directions of the Board and may employ such persons as are deemed
16 necessary to administer the System.

17 SECTION 9. AMENDATORY 47 O.S. 2001, Section 2-305, as
18 last amended by Section 7, Chapter 152, O.S.L. 2007 (47 O.S. Supp.
19 2008, Section 2-305), is amended to read as follows:

20 Section 2-305. A. Except as otherwise provided in this title,
21 at any time after attaining normal retirement date, any member of
22 the Oklahoma Law Enforcement Retirement System upon application for
23 unreduced retirement benefits made and approved, may retire, and,
24 during the remainder of the member's lifetime, receive annual

1 retirement pay, payable in equal monthly payments, equal to two and
2 one-half percent (2 1/2%) of the final average salary times years of
3 credited service. If such retired member is reemployed by a state
4 agency in a position which is not covered by the System, such
5 retired member shall continue to receive in-service distributions
6 from the System. Prior to September 19, 2002, if such retired
7 member was reemployed by a state agency in a position which is
8 covered by the System, such member shall continue to receive in-
9 service distributions from the System and shall not accrue any
10 further credited service. If such a member is reemployed by a state
11 agency in a position which is covered by the System on or after
12 September 19, 2002, such member's monthly retirement payments shall
13 be suspended until such member retires and is not reemployed by a
14 state agency in a position which is covered by the System. No
15 member shall be required to retire for length of service unless and
16 until the member shall have reached the age of sixty (60) years, but
17 any member of the System who shall have reached the age of sixty
18 (60) years and who shall also have completed twenty (20) years or
19 more of credited service shall be retired by the Board unless, after
20 application to the Board and such examination and showing as the
21 Board may deem proper, the Board shall determine that such member of
22 the System is physically and mentally able to continue to perform
23 duties or service as required of a member. Unless such application
24 be made by a member of the System within thirty (30) days after

1 reaching the age of sixty (60) years and completing twenty (20)
2 years or more of credited service or if, after such application and
3 examination, the Board shall determine that such member of the
4 System is not physically or mentally able to continue to perform
5 services as required of the employer, the Board shall by resolution
6 order his or her retirement with retirement pay for length of
7 service as provided herein.

8 B. Beginning July 1, 1994, members who retired or were eligible
9 to retire prior to July 1, 1980 or their surviving spouses shall
10 receive annual retirement pay, payable in equal monthly payments,
11 equal to the greater of their current retirement pay, or two and
12 one-half percent (2 1/2%) of the actual paid gross salary being
13 currently paid to a highway patrol officer, at the time each such
14 monthly retirement payment is made, multiplied by the retired
15 member's years of credited service.

16 C. Members of the System whose salary is set by statute who
17 have retired after completion of the mandatory twenty (20) years of
18 service, and those members with statutory salaries who retire after
19 reaching the mandatory twenty-year retirement, shall receive an
20 annual retirement pay, payable in equal monthly installments, based
21 upon the greater of either:

22 1. The top base pay currently paid to an active member, at the
23 time each such monthly retirement payment is made, multiplied by two
24

1 and one-half percent (2 1/2%) multiplied by the number of years of
2 credited service and fraction thereof for the following positions:

- 3 a. Oklahoma Highway Patrolman,
- 4 b. Communications Dispatcher,
- 5 c. Capitol Patrolman,
- 6 d. Lake Patrolman,
- 7 e. Oklahoma State Bureau of Investigation-Special Agent;
- 8 or

9 2. The member's final average salary as set forth in paragraph
10 9 of Section 2-300 of this title, multiplied by two and one-half
11 percent (2 1/2%), and multiplied by the number of years of credited
12 service and fraction thereof.

13 No member of the System retired prior to July 1, 2002, shall
14 receive a benefit less than the amount the member is receiving as of
15 June 30, 2002.

16 D. Other members of the System whose retirement benefit is not
17 otherwise prescribed by this section who have retired after
18 completion of the mandatory twenty (20) years of service, and those
19 members who retire after reaching the mandatory twenty-year
20 retirement, shall receive an annual retirement pay, payable in equal
21 monthly payments, based upon the greater of either:

22 1. The actual average salary currently paid to the highest
23 nonsupervisory position in the participating agency, at the time
24 each such monthly payment is made, multiplied by two and one-half

1 percent (2 1/2%), multiplied by the number of years of credited
2 service and fraction thereof for the following positions:

- 3 a. Alcoholic Beverage Laws Enforcement Commission-ABLE
4 Commission Agent III,
- 5 b. Oklahoma State Bureau of Narcotics and Dangerous Drugs
6 Control-Narcotics Agent III,
- 7 c. Oklahoma Tourism and Recreation Department-Park Ranger
8 II,
- 9 d. Oklahoma State Board of Pharmacy-Pharmacy Inspector,
- 10 e. University of Oklahoma-Police Officer,
- 11 f. Oklahoma State University-Police Officer; or

12 2. The other member's final average salary as set forth in
13 paragraph 9 of Section 2-300 of this title, multiplied by two and
14 one-half percent (2 1/2%), multiplied by the number of years of
15 credited service and fraction thereof.

16 No member of the System retired prior to July 1, 2002, shall
17 receive a benefit less than the amount the member is receiving as of
18 June 30, 2002. The participating employer must certify to the
19 System in writing the actual average gross salary currently paid to
20 the highest nonsupervisory position. The Board of Trustees shall
21 promulgate such rules as are necessary to implement the provisions
22 of this section.

23 E. A member who meets the definition of disability as defined
24 in paragraph 11 of Section 2-300 of this title by direct reason of

1 the performance of the member's duties as an officer shall receive a
2 monthly benefit equal to the greater of fifty percent (50%) of final
3 average salary or two and one-half percent (2 1/2%) of final average
4 salary multiplied by the number of years of the member's credited
5 service. If such member participates in the Oklahoma Law
6 Enforcement Deferred Option Plan pursuant to Section 2-305.2 of this
7 title, then such member's disability pension provided pursuant to
8 this subsection shall be reduced to account for such member's
9 participation in the Oklahoma Law Enforcement Deferred Option Plan.

10 F. A member who meets the definition of disability as defined
11 in paragraph 11 of Section 2-300 of this title and whose disability
12 is by means of personal and traumatic injury of a catastrophic
13 nature and in the line of duty, shall receive a monthly benefit
14 equal to:

- 15 1. Two and one-half percent (2 1/2%);
- 16 2. Multiplied by:
 - 17 a. twenty (20) years of service, regardless of the actual
18 number of years of credited service performed by the
19 member prior to the date of disability, if the member
20 had performed less than twenty (20) years of service,
21 or
 - 22 b. the actual number of years of service performed by the
23 member if the member had performed twenty (20) or more
24 years of service;

1 3. Multiplied by a final average salary equal to:

- 2 a. the salary which the member would have received
3 pursuant to statutory salary schedules in effect upon
4 the date of the disability for twenty (20) years of
5 service prior to disability. The final average salary
6 for a member who performed less than twenty (20) years
7 of service prior to disability shall be computed
8 assuming that the member was paid the highest salary
9 allowable pursuant to the law in effect at the time of
10 the member's disability based upon twenty (20) years
11 of service and with an assumption that the member was
12 eligible for any and all increases in pay based upon
13 rank during the entire period. If the salary of a
14 member is not prescribed by a specific salary schedule
15 upon the date of the member's disability, the final
16 average salary for the member shall be computed by the
17 member's actual final average salary or the highest
18 median salary amount for a member whose salary was
19 prescribed by a specific salary schedule upon the date
20 of the member's disability, whichever final average
21 salary amount would be greater, or
- 22 b. the actual final average salary of the member if the
23 member had performed twenty (20) or more years of
24 service prior to disability.

1 If such member participates in the Oklahoma Law Enforcement
2 Deferred Option Plan pursuant to Section 2-305.2 of this title, such
3 member's disability pension provided pursuant to this subsection
4 shall be adjusted as provided in Section 2-305.2 of this title to
5 account for such member's participation in the Oklahoma Law
6 Enforcement Deferred Option Plan.

7 G. A member who meets the definition of disability as defined
8 in Section 2-300 of this title and whose disability occurred prior
9 to the member's normal retirement date but after completing three
10 (3) years of vesting service and not by reason of the performance of
11 the member's duties as an officer or as a result of the member's
12 willful negligence shall receive a monthly benefit equal to two and
13 one-half percent (2 1/2%) of final average salary multiplied by the
14 number of years of the member's credited service.

15 H. Payment of a disability pension shall commence as of the
16 first day of the month coinciding or next following the date of
17 retirement and shall continue as long as the member meets the
18 definition of total and permanent disability provided in this
19 section.

20 I. For the purpose of determining the member's disability under
21 subsection E, F or G of this section, the member shall be required
22 by the Board to be examined by a minimum of two recognized
23 physicians selected by the Board to determine the extent of the
24 member's injury or illness. The examining physicians shall furnish

1 the Board a detailed written report of the injury or illness of the
2 examined member establishing the extent of disability and the
3 possibilities of the disabled member being returned to his or her
4 regular duties or an alternate occupation or service covered by the
5 System after a normal recuperation period. The Board shall require
6 all retired disabled members who have not attained their normal
7 retirement date to submit to a physical examination once each year
8 for a minimum of three (3) years following retirement. The Board
9 shall select a minimum of two physicians to examine the retired
10 members and pay for their services from the fund. Any retired
11 disabled member found no longer disabled by the examining physicians
12 to perform the occupation of the member or an alternate occupation
13 or service covered by the System shall be required to return to duty
14 and complete twenty (20) years of service as provided in subsection
15 A of this section, or forfeit all his or her rights and claims under
16 this act.

17 J. The disability benefit under this section shall be for the
18 lifetime of the member unless such member is found no longer
19 disabled pursuant to subsection I of this section. Such member
20 shall not be entitled to the retirement benefit pursuant to
21 subsection A of this section unless such member returns to active
22 duty and is eligible for a retirement benefit as provided in
23 subsection A of this section.

24

1 K. At the postoffer, preemployment physical examination
2 required under paragraph 6 of Section 2-300 of this title, the
3 physician selected by the Board shall determine the extent to which
4 a new member is disabled. If a member is determined to be partially
5 disabled, the physician shall assign a percentage of disability to
6 such partial disability. If such member then becomes entitled to a
7 disability benefit under either subsection E or subsection G of this
8 section, the benefit payable shall be reduced by the percentage
9 which such member was determined to be disabled at the postoffer,
10 preemployment physical unless the Board makes a determination that
11 the initially determined percentage of disability at the
12 preemployment physical examination is unrelated to the reason for
13 the disability currently sought pursuant to subsection E or
14 subsection G of this section. Upon employment, the member shall
15 disclose to the Board any disability payments received from any
16 source. The amount of disability to be paid to any member cannot
17 exceed one hundred percent (100%) disability from all sources. The
18 provisions of this subsection shall apply only to members whose
19 effective date of membership is on or after July 1, 2000.

20 L. In addition to the pension provided for under subsection F
21 of this section, if said member has one or more children under the
22 age of eighteen (18) years or under the age of twenty-two (22) years
23 if the child is enrolled full time in and is regularly attending a
24 public or private school or any institution of higher education,

1 Four Hundred Dollars (\$400.00) a month shall be paid from said Fund
2 for the support of each surviving child to the member or person
3 having the care and custody of such children until each child
4 reaches the age of eighteen (18) years or reaches the age of twenty-
5 two (22) years if the child is enrolled full time in and is
6 regularly attending a public or private school or any institution of
7 higher education.

8 M. Notwithstanding any other provisions in Section 2-300
9 through 2-315 of this title, in order to be eligible to receive
10 disability benefits, a member who meets the definition of disability
11 as defined in paragraph 11 of Section 2-300 of this title shall file
12 the member's completed application for disability benefits with the
13 System before such member's date of termination from service and
14 provide such additional information that the System's rules require
15 within six (6) months of the System's receipt of such application.
16 If the member's completed application for disability benefits is not
17 filed with the System before the member's date of termination from
18 service or such additional information as is required under the
19 System's rules is not provided within six (6) months of the System's
20 receipt of such application, such member shall be eligible only for
21 such other benefits as are available to members of the System and
22 shall not be eligible to receive any disability benefits.

23 N. If the requirements of Section ~~10~~ 2-305.1C of this ~~act~~ title
24 are satisfied, a member who, by reason of disability or attainment

1 of normal retirement date or age, is separated from service as a
2 public safety officer with the member's participating employer may
3 elect to have payment made directly to the provider for qualified
4 health insurance premiums by deduction from his or her monthly
5 disability benefit or monthly retirement payment, after December 31,
6 2006, in accordance with Section 402(1) of the Internal Revenue Code
7 of 1986, as amended.

8 SECTION 10. AMENDATORY Section 9, Chapter 152, O.S.L.
9 2007 (47 O.S. Supp. 2008, Section 2-305.1B), is amended to read as
10 follows:

11 Section 2-305.1B A. An individual who has been designated,
12 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of
13 1986, as amended, as the beneficiary of a deceased member and who is
14 not the surviving spouse of the member, may elect, in accordance
15 with Section 402(c)(11) of the Internal Revenue Code of 1986, as
16 amended, and at the time and in the manner prescribed by the Board,
17 to have a direct trustee-to-trustee transfer of any portion of such
18 beneficiary's lump-sum distribution from the Oklahoma Law
19 Enforcement Retirement System after December 31, 2006, made to an
20 individual retirement account or individual retirement annuity
21 (other than an endowment contract) described in Section 408(a) or
22 (b) of the Internal Revenue Code of 1986, as amended (IRA), that is
23 established on behalf of such designated individual. If such
24 transfer is made, then:

1 1. The transfer is treated as an eligible rollover distribution
2 for purposes of Section 402(c)(11) of the Internal Revenue Code of
3 1986, as amended;

4 2. The transferee IRA is treated as an inherited individual
5 retirement account or an inherited individual retirement annuity
6 (within the meaning of Section 408(d)(3)(C) of the Internal Revenue
7 Code of 1986, as amended), and must be titled in the name of the
8 deceased member, for the benefit of the beneficiary; and

9 3. The required minimum distribution rules of Section
10 401(a)(9)(B), other than clause iv thereof, of the Internal Revenue
11 Code of 1986, as amended, apply to the transferee IRA.

12 B. A trust maintained for the benefit of one or more designated
13 beneficiaries shall be treated in the same manner as a trust
14 designated beneficiary.

15 C. The Board shall promulgate such rules as are necessary to
16 implement the provisions of this section.

17 SECTION 11. AMENDATORY 47 O.S. 2001, Section 2-305.4, as
18 last amended by Section 10, Chapter 177, O.S.L. 2008 (47 O.S. Supp.
19 2008, Section 2-305.4), is amended to read as follows:

20 Section 2-305.4 A. Notwithstanding any other provision
21 contained herein to the contrary, the benefits payable to a member
22 from the Oklahoma Law Enforcement Retirement System provided by
23 employer contributions (including contributions picked up by the
24 employer under Section 414(h) of the Internal Revenue Code of 1986,

1 as amended), shall be subject to the limitations of Section 415 of
2 the Internal Revenue Code of 1986, as amended, in accordance with
3 the provisions of this section. The limitations of this section
4 shall apply in limitation years beginning on or after July 1, 2007,
5 except as otherwise provided below.

6 B. Except as provided below, effective for limitation years
7 ending after December 31, 2001, any accrued retirement benefit
8 payable to a member as an annual benefit as described below shall
9 not exceed One Hundred Sixty Thousand Dollars (\$160,000.00),
10 automatically adjusted under Section 415(d) of the Internal Revenue
11 Code of 1986, as amended, for increases in the cost of living, as
12 prescribed by the Secretary of the Treasury or the Secretary's
13 delegate, effective January 1 of each calendar year and applicable
14 to the limitation year ending with or within such calendar year.
15 The automatic annual adjustment of the dollar limitation in this
16 subsection under Section 415(d) of the Internal Revenue Code of
17 1986, as amended, shall apply to a member who has had a separation
18 from employment.

19 1. The member's annual benefit is a benefit that is payable
20 annually in the form of a straight life annuity. Except as provided
21 below, where a benefit is payable in a form other than a straight
22 life annuity, the benefit shall be adjusted to an actuarially
23 equivalent straight life annuity that begins at the same time as
24 such other form of benefit and is payable on the first day of each

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

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

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

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

21 c. the inclusion in the form of a benefit of an automatic
22 benefit increase feature, provided, the form of
23 benefit is not subject to Section 417(e)(3) of the
24 Internal Revenue Code of 1986, as amended, and would

1 otherwise satisfy the limitations of this section, and
2 the System provides that the amount payable under the
3 form of benefit in any limitation year shall not
4 exceed the limits of this section applicable at the
5 annuity starting date, as increased in subsequent
6 years pursuant to Section 415(d) of the Internal
7 Revenue Code of 1986, as amended. For this purpose,
8 an automatic benefit increase feature is included in a
9 form of benefit if the form of benefit provides for
10 automatic, periodic increases to the benefits paid in
11 that form.

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

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

23 5. Benefit Forms Not Subject to Section 417(e)(3) of the
24 Internal Revenue code of 1986, as amended: The straight life

1 annuity that is actuarially equivalent to the member's form of
2 benefit shall be determined under this paragraph 5 if the form of
3 the member's benefit is either:

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

9 b. an annuity that decreases during the life of the
10 member merely because of:

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

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

19 c. Limitation Years Beginning Before July 1, 2007. For
20 limitation years beginning before July 1, 2007, the
21 actuarially equivalent straight life annuity is equal
22 to the annual amount of the straight life annuity
23 commencing at the same annuity starting date that has
24 the same actuarial present value as the member's form

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

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

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

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

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

15 (1) the annual amount of the straight life annuity
16 commencing at the same annuity starting date that
17 has the same actuarial present value as the
18 member's form of benefit, computed using the
19 interest rate and the mortality table or other
20 tabular factor, each as set forth in subsection H
21 of Section 2-303.1 of this title for adjusting
22 benefits in the same form,

23 (2) the annual amount of the straight life annuity
24 commencing at the same annuity starting date that

1 has the same actuarial present value as the
2 member's form of benefit, computed using a five
3 and one-half percent (5.5%) interest rate
4 assumption and the applicable mortality table
5 described in Revenue Ruling 2001-62, and

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

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

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

1 b. Annuity Starting Date in Plan Years Beginning in 2004
2 or 2005.

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

12 (a) the interest rate and the mortality table or
13 other tabular factor, each as set forth in
14 subsection H of Section 2-303.1 of this
15 title for adjusting benefits in the same
16 form, and

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

20 (2) If the annuity starting date of the member's
21 benefit is on or after the first day of the first
22 plan year beginning in 2004 and before December
23 31, 2004, the application of this subparagraph
24 shall not cause the amount payable under the

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

- 11 (a) the interest rate and mortality table or
12 other tabular factor, each as set forth in
13 subsection H of Section 2-203.1 of this
14 title for adjusting benefits in the same
15 form,
- 16 (b) i. the rate of interest on thirty-year
17 Treasury securities as specified by the
18 Commissioner for the lookback month for
19 the stability period specified below.
20 The lookback month applicable to the
21 stability period is the fourth calendar
22 month preceding the first day of the
23 stability period, as specified below.
24 The stability period is the successive

1 period of one (1) plan year which
2 contains the annuity starting date for
3 the distribution and for which the
4 applicable interest rate remains
5 constant, and

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

9 (c) i. the rate of interest on thirty-year
10 Treasury securities as specified by the
11 Commissioner for the lookback month for
12 the stability period specified below.
13 The lookback month applicable to the
14 stability period is the fourth calendar
15 month preceding the first day of the
16 stability period, as specified below.
17 The stability period is the successive
18 period of one (1) plan year which
19 contains the annuity starting date for
20 the distribution and for which the
21 applicable interest rate remains
22 constant (as in effect on the last day
23 of the last plan year beginning before
24 January 1, 2004, under provisions of

1 the System then adopted and in effect),

2 and

3 ii. the applicable mortality table

4 described in Revenue Ruling 2001-62.

5 7. Subject to the adjustment under subsection E of this
6 section, the foregoing limitation shall not be applicable with
7 respect to any member whose annual benefits from the System and
8 under all other defined benefit plans of the employer are less than
9 Ten Thousand Dollars (\$10,000.00) for the year or from any prior
10 year, if such member has not at any time participated in any defined
11 contribution plan maintained by the employer.

12 C. If a member has less than ten (10) years of participation in
13 the System and all predecessor pension and retirement systems, the
14 dollar limitation otherwise applicable under subsection B of this
15 section shall be multiplied by a fraction, the numerator of which is
16 the number of the years of participation in the System of the
17 member, but never less than one (1), and the denominator of which is
18 ten (10).

19 D. Adjustment of Dollar Limitation for Benefit Commencement
20 Before Sixty-two (62) Years of Age or After Sixty-five (65) Years of
21 Age: Effective for benefits commencing in limitation years ending
22 after December 31, 2001, the dollar limitation under subsection B of
23 this section shall be adjusted if the annuity starting date of the
24 member's benefit is before sixty-two (62) years of age or after

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (65) years of age and has the same accrued
2 benefit as the member.

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

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

22 E. Minimum Benefit Permitted: Notwithstanding anything else in
23 this section to the contrary, the benefit otherwise accrued or
24

1 payable to a member under this System shall be deemed not to exceed
2 the maximum permissible benefit if:

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

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

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

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

23 F. In no event shall the maximum annual accrued retirement
24 benefit of a member allowable under this section be less than the

1 annual amount of such accrued retirement benefit, including early
2 pension and qualified joint and survivor annuity amounts, duly
3 accrued by the member as of the last day of the limitation year
4 beginning in 1982, or as of the last day of the limitation year
5 beginning in 1986, whichever is greater, disregarding any plan
6 changes or cost-of-living adjustments occurring after July 1, 1982,
7 as to the 1982 accrued amount, and May 5, 1986, as to the 1986
8 accrued amount.

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

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

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

20 H. Effective for years beginning after December 31, 1997, if a
21 member repays to the System any amounts received because of the
22 member's prior termination pursuant to paragraph 3 of subsection (b)
23 of Section 2-307 of this title, such repayment shall not be taken
24 into account for purposes of Section 415 of the Internal Revenue

1 Code of 1986, as amended, pursuant to Section 415(k)(3) of the
2 Internal Revenue Code of 1986, as amended.

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

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

14 K. The Board is hereby authorized to revoke the special
15 election previously made under Internal Revenue Code Section
16 415(b)(10).

17 SECTION 12. AMENDATORY 47 O.S. 2001, Section 2-307, as
18 last amended by Section 11, Chapter 177, O.S.L. 2008 (47 O.S. Supp.
19 2008, Section 2-307), is amended to read as follows:

20 Section 2-307. (a) In the event a member of the System obtains
21 a leave of absence, of not to exceed ninety (90) days at any one
22 time, because of injury or illness or for any personal reason other
23 than the acceptance of other employment, the member's membership in
24 the System shall not terminate and the period of such leave shall be

1 counted toward retirement for length of service if, during such
2 leave of absence or at the end thereof, the member shall pay to the
3 Fund an amount equal to the contributions which would have been
4 deducted from the member's salary during such period if such leave
5 of absence had not been obtained, but if such contributions are not
6 paid during such leave or made up within thirty (30) days after the
7 end of such leave, or if such leave of absence extends for more than
8 ninety (90) days at any one time, the period of such leave shall not
9 be counted toward length of service for retirement nor in computing
10 the amount of any pension or any retirement pay or any other
11 benefits hereunder.

12 (b) In the event a member of the System obtains a leave of
13 absence for the purpose of accepting other employment, or if a
14 member resigns and during such resignation accepts other employment,
15 the member's membership in the System shall terminate as of the date
16 of the beginning of such leave. Provided, that if the membership of
17 a member of the System shall have been terminated either by such
18 leave of absence or by termination of employment, and such former
19 member is reemployed, the Board, upon application therefor made in
20 the same manner as an original application for membership in the
21 System, may reinstate such membership. Such reinstated member shall
22 be allowed full credit toward retirement for all service credit
23 accrued up to the time of termination of membership if, but only if:

24

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

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

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

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

12 a. a cash lump-sum payment,

13 b. a trustee-to-trustee transfer from a Section 403(b)
14 annuity or custodial account, an eligible deferred
15 compensation plan described in Code Section 457(b)
16 which is maintained by an eligible employer described
17 in Code Section 457(e)(1)(A), and/or a Code Section
18 401(a) qualified plan,

19 c. a direct rollover of tax-deferred funds from a Code
20 Section 403(b) annuity or custodial account, an
21 eligible deferred compensation plan described in Code
22 Section 457(b) which is maintained by an eligible
23 employer described in Code Section 457(e)(1)(A), a
24 Code Section 401(a) qualified plan, and/or a Code

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

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

7 The provisions of this subsection shall not apply to absences
8 caused by such military service as may be considered as service for
9 retirement for length of service under the provisions of subsection
10 (c) of this section.

11 (c) In determining the eligibility of a member for retirement
12 based upon length of service, any service in the Armed Forces of the
13 United States or any component thereof between the 16th day of
14 September, 1940, and the 30th day of June, 1954, and any service in
15 the Armed Forces of the United States or any component thereof upon
16 call of the President of the United States or of the Governor of the
17 State of Oklahoma, together with such prior service, as would have
18 been otherwise considered as service for retirement for length of
19 service, shall be considered as service for length of service,
20 provided that the member returns and files application for
21 reinstatement as a member of the System within ninety (90) days
22 after the member's release, or opportunity for release, from such
23 Armed Forces or component thereof. The member's employing agency
24 that is making contributions to the System on behalf of the member

1 shall continue payment of contributions into the pension fund, to
2 the same force and effect as though the member was in the actual
3 employment of such agency at the same salary for a period not to
4 exceed five (5) years. If such member shall have been refunded any
5 portion of the membership contributions as provided in Section 2-308
6 of this title, the member shall be required to reimburse the Fund
7 with the same amount at the time of the member's application for
8 reinstatement in the System, before the reinstated member is given
9 credit for accrued prior service. Provided, that in no event shall
10 a member of the System who has entered such Armed Forces or
11 component thereof prior to retirement be or become eligible for
12 retirement for length of service unless the member shall thereafter
13 have been reinstated as a member of the System as provided for
14 herein, and thereafter remained a member for at least one (1) year
15 after such reinstatement.

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

18 (e) Notwithstanding any provisions herein to the contrary,
19 contributions:

20 1. Contributions, benefits and service credit with respect to
21 qualified military service shall be provided in accordance with
22 Section 414(u) of the Internal Revenue Code of 1986, as amended,
23 which is in accordance with the Uniformed Service Employment and
24 Reemployment Rights Act of 1994, as amended (USERRA). The

1 employer's contributions to the System for a member covered by
2 USERRA are due when such a member makes up his or her contributions
3 that were missed due to his or her qualified military service; and
4 2. Effective January 1, 2007, if any member dies while
5 performing qualified military service, the survivors of the member
6 are entitled to any additional benefits other than benefit accruals
7 relating to the period of qualified military service provided under
8 the System had the member resumed and then terminated employment on
9 account of death.

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

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