

ESB 1071

THE HOUSE OF REPRESENTATIVES
Monday, April 13, 2009

ENGROSSED
Senate Bill No. 1071
As Amended

ENGROSSED SENATE BILL NO. 1071 - By: BARRINGTON of the Senate and ARMES of the House.

(retirement – Oklahoma Firefighters Pension and Retirement System –
emergency)

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

- 1 SECTION 1. AMENDATORY 11 O.S. 2001, Section 49-100.1, as last amended
2 by Section 1, Chapter 128, O.S.L. 2003 (11 O.S. Supp. 2008, Section 49-100.1), is
3 amended to read as follows:
- 4 Section 49-100.1 As used in this article:
- 5 1. "System" means the Oklahoma Firefighters Pension and Retirement System and
6 all predecessor municipal firefighters pension and retirement systems;
- 7 2. "Article" means Article 49 of this title;
- 8 3. "State Board" means the Oklahoma Firefighters Pension and Retirement Board;
- 9 4. "Local board" means the local firefighters pension and retirement boards;
- 10 5. "Fund" means the Oklahoma Firefighters Pension and Retirement Fund;

1 6. "Member" means all eligible firefighters of a participating municipality or a fire
2 protection district who perform the essential functions of fire suppression, prevention,
3 and life safety duties in a fire department. The term "member" shall include but not be
4 limited to the person serving as fire chief of any participating municipality, provided that
5 a person serving as fire chief of a participating municipality shall meet the age, agility,
6 physical and other eligibility requirements required by law at the time said person
7 becomes a member of the System. Effective July 1, 1987, a member does not include a
8 "leased employee". The term "leased employee" means any person (other than an
9 employee of the recipient) who pursuant to an agreement between the recipient and any
10 other person ("leasing organization") has performed services for the recipient (or for the
11 recipient and related persons determined in accordance with Section 414(n)(6) of the
12 Internal Revenue Code of 1986, as amended) on a substantially full-time basis for a
13 period of at least one year, and such services are performed under primary direction or
14 control by the recipient. Contributions or benefits provided a leased employee by the
15 leasing organization which are attributable to services performed for the recipient
16 employer shall be treated as provided by the recipient employer. A leased employee shall
17 not be considered an employee of the recipient if the requirements of the safe harbor
18 provisions of Section 414(n)(5) of the Internal Revenue Code of 1986, as amended, are
19 satisfied. Effective July 1, 1999, any individual who agrees with the participating
20 municipality that the individual's services are to be performed as a leased employee or an
21 independent contractor shall not be a member regardless of any classification as a

1 common law employee by the Internal Revenue Service or any other governmental
2 agency, or any court of competent jurisdiction;

3 7. "Normal retirement date" means the date at which the member is eligible to
4 receive the unreduced payments of the member's accrued retirement benefit. Such date
5 shall be the first day following the date the member completes twenty (20) years of
6 credited service. If the member's employment continues past the normal retirement date
7 of the member, the actual retirement date of the member shall be the first day following
8 the date the member terminates employment with more than twenty (20) years of
9 credited service;

10 8. "Credited service" means the period of service used to determine the eligibility
11 for and the amount of benefits payable to a member. Credited service shall consist of the
12 period during which the member participated in the System or the predecessor municipal
13 systems as an active employee in an eligible membership classification, plus any service
14 prior to the establishment of the predecessor municipal systems which was credited
15 under the predecessor municipal systems; provided however, "credited service" for
16 members from a fire protection district shall not begin accruing before July 1, 1982;

17 9. "Participating municipality" means a municipality, county fire department
18 organized pursuant to subsection D of Section 351 of Title 19 of the Oklahoma Statutes,
19 or fire protection district which is making contributions to the System on behalf of its
20 firefighters;

21 10. "Disability" means the complete inability of the firefighter to perform any and
22 every duty of his regular occupation; provided further, that once benefits have been paid

1 for twenty-four (24) months the provisions of Section 49-110 of this title shall apply to the
2 firefighter;

3 11. "Executive Director" means the managing officer of the System employed by the
4 State Board;

5 12. "Eligible employer" means any municipality with a municipal fire department
6 or a fire protection district with an organized fire department;

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

9 14. "Final average salary" means the average paid gross salary of the firefighter for
10 normally scheduled hours over the highest salaried thirty (30) consecutive months of the
11 last sixty (60) months of credited service. Gross salary shall not include payment for
12 accumulated sick or annual leave upon termination of employment, any uniform
13 allowances or any other compensation for reimbursement of out-of-pocket expenses.
14 Only salary on which the required contributions have been made may be used in
15 computing the final average salary. Effective January 1, 1988, gross salary shall include
16 any amount of elective salary reduction under Section 125 of the Internal Revenue Code
17 of 1986, as amended. Gross salary shall include any amount of elective salary reduction
18 under Section 457 of the Internal Revenue Code of 1986, as amended, and any amount of
19 nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986,
20 as amended. Effective July 1, 1998, for purposes of determining a member's
21 compensation, any contribution by the member to reduce his regular cash remuneration
22 under 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be treated as if

1 the member did not make such an election. Only salary on which required contributions
2 have been made may be used in computing final average salary.

3 In addition to other applicable limitations, and notwithstanding any other provision
4 to the contrary, for plan years beginning on or after July 1, 2002, the annual gross salary
5 of each “Noneligible Member” taken into account under the System shall not exceed the
6 Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”) annual salary
7 limit. The EGTRRA annual salary limit is Two Hundred Thousand Dollars
8 (\$200,000.00), as adjusted by the Commissioner for increases in the cost of living in
9 accordance with Section 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended.
10 The annual salary limit in effect for a calendar year applies to any period, not exceeding
11 twelve (12) months, over which salary is determined (“determination period”) beginning
12 in such calendar year. If a determination period consists of fewer than twelve (12)
13 months, the EGTRRA salary limit will be multiplied by a fraction, the numerator of
14 which is the number of months in the determination period, and the denominator of
15 which is twelve (12). For purposes of this subsection, a “Noneligible Member” is any
16 member who first became a member during a plan year commencing on or after July 1,
17 1996.

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

21 Effective January 1, 2008, gross salary shall also include gross salary, as described
22 above, but paid by the later of two and one-half (2 1/2) months after a firefighter’s

1 severance from employment or the end of the plan year that includes the date the
2 firefighter terminated employment, if it is a payment that, absent a severance from
3 employment, would have been paid to the firefighter while the firefighter continued in
4 employment with the participating municipality. Effective January 1, 2008, any
5 payments not described above shall not be considered gross salary if paid after severance
6 from employment, even if they are paid by the later of two and one-half (2 1/2) months
7 after the date of severance from employment or the end of the plan year that includes the
8 date of severance from employment. Effective January 1, 2008, back pay, within the
9 meaning of Section 1.415 (c)-2(g)(8) of the Income Tax Regulations, shall be treated as
10 gross salary for the plan year to which the back pay relates to the extent the back pay
11 represents wages and compensation that would otherwise be included in this definition.
12 Effective for years beginning after December 31, 2008, gross salary shall also include
13 differential wage payments under Section 414(u)(12) of the Internal Revenue Code of
14 1986, as amended;

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

18 16. "Beneficiary" means a member's surviving spouse or any surviving children,
19 including biological and adopted children, at the time of the member's death. The
20 surviving spouse must have been married to the firefighter for the thirty (30) continuous
21 months preceding the firefighter's death provided a surviving spouse of a member who
22 died while in, or as a consequence of, the performance of the member's duty for a

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

12 17. "Accumulated contributions" means the sum of all contributions made by a
13 member to the System and includes both contributions deducted from the compensation
14 of a member and contributions of a member picked up and paid by the participating
15 municipality of the member. Accumulated contributions shall not include any interest on
16 the contributions of the member, interest on any amount contributed by the municipality
17 or state and any amount contributed by the municipality or state; and

18 18. "Limitation year" means the year used in applying the limitations of Section
19 415 of the Internal Revenue Code of 1986, which year shall be the calendar year.

20 SECTION 2. AMENDATORY 11 O.S. 2001, Section 49-106, as last amended by
21 Section 1, Chapter 345, O.S.L. 2007 (11 O.S. Supp. 2008, Section 49-106), is amended to
22 read as follows:

1 Section 49-106. A. Any firefighter who reaches the firefighter's normal retirement
2 date shall be entitled, upon written request, to retire from such service and be paid from
3 the System a monthly pension equal to the member's accrued retirement benefit;
4 provided, that the pension shall cease during any period of time the member may
5 thereafter serve for compensation in any municipal fire department in the state. If such
6 a member is reemployed by a participating municipality in a position which is not
7 covered by the System, retirement shall also include receipt by such member of in-service
8 distributions from the System.

9 B. With respect to distributions under the System made for calendar years
10 beginning on or after January 1, 2005, the System shall apply the minimum distribution
11 incidental benefit requirements, incidental benefit requirements, and minimum
12 distribution requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as
13 amended, in accordance with the final regulations under Section 401(a)(9) of the Internal
14 Revenue Code of 1986, as amended, which were issued in April 2002 and June 2004,
15 notwithstanding any provision of the System to the contrary. With respect to
16 distributions under the System made for calendar years beginning on or after January 1,
17 2001 through December 31, 2004, the System shall apply the minimum distribution
18 requirements and incidental benefit requirements of Section 401(a)(9) of the Internal
19 Revenue Code of 1986, as amended, in accordance with the regulations under Section
20 401(a)(9) of the Internal Revenue Code of 1986, as amended, which were proposed in
21 January 2001, notwithstanding any provision of the System to the contrary. Effective
22 July 1, 1989, notwithstanding any other provision contained herein to the contrary, in no

1 event shall commencement of distribution of the accrued retirement benefit of a member
2 be delayed beyond April 1 of the calendar year following the later of:

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

5 2. The actual retirement date of the member.

6 C. Any member or beneficiary eligible to receive a monthly benefit from the System
7 may make an election to waive all or a portion of monthly benefits.

8 D. If the requirements of Section 4 49-106.5 of this ~~act~~ title are satisfied, a member
9 who, by reason of attainment of normal retirement date or age, is separated from service
10 as a public safety officer with the member's participating municipality, may elect to have
11 payment made directly to the provider for qualified health insurance premiums by
12 deduction from his or her monthly pension payment, after December 31, 2006, in
13 accordance with Section 402(1) of the Internal Revenue Code of 1986, as amended.

14 SECTION 3. AMENDATORY 11 O.S. 2001, Section 49-106.2, as last amended
15 by Section 2, Chapter 177, O.S.L. 2008 (11 O.S. Supp. 2008, Section 49-106.2), is
16 amended to read as follows:

17 Section 49-106.2 A. Notwithstanding any other provision contained herein to the
18 contrary, the benefits payable to a member from the System provided by employer
19 contributions (including contributions picked up by the employer under Section 414(h) of
20 the Internal Revenue Code of 1986, as amended) shall be subject to the limitations of
21 Section 415 of the Internal Revenue Code of 1986, as amended, in accordance with the

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

3 B. Except as provided below, effective for limitation years ending after December
4 31, 2001, any accrued retirement benefit payable to a member as an annual benefit as
5 described below shall not exceed One Hundred Sixty Thousand Dollars (\$160,000.00),
6 automatically adjusted under Section 415(d) of the Internal Revenue Code of 1986, as
7 amended, for increases in the cost of living, as prescribed by the Secretary of the
8 Treasury or his delegate, effective January 1 of each calendar year and applicable to the
9 limitation year ending with or within such calendar year. The automatic annual
10 adjustment of the dollar limitation in this subsection under Section 415(d) of the Internal
11 Revenue Code of 1986, as amended, shall apply to a member who has had a separation
12 from employment.

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

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

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

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

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

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

10 5. Benefit Forms Not Subject to Section 417(e)(3) of the Internal Revenue Code of
11 1986, as amended: The straight life annuity that is actuarially equivalent to the
12 member's form of benefit shall be determined under this paragraph if the form of the
13 member's benefit is either:

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

18 b. an annuity that decreases during the life of the member merely
19 because of:

20 (1) the death of the survivor annuitant, but only if the reduction is
21 not below fifty percent (50%) of the benefit payable before the
22 death of the survivor annuitant, or

- 1 (2) the cessation or reduction of Social Security supplements or
2 qualified disability payments as defined in Section 401(a)(11) of
3 the Internal Revenue Code of 1986, as amended.
- 4 c. Limitation Year Beginning Before July 1, 2007. For limitation years
5 beginning before July 1, 2007, the actuarially equivalent straight life
6 annuity is equal to the annual amount of the straight life annuity
7 commencing at the same annuity starting date that has the same
8 actuarial present value as the member's form of benefit computed
9 using whichever of the following produces the greater annual amount:
- 10 (1) the interest rate and the mortality table or other tabular factor,
11 each as set forth in subsection H of Section 49-100.9 of this title
12 for adjusting benefits in the same form, and
- 13 (2) a five percent (5%) interest rate assumption and the applicable
14 mortality table described in Revenue Ruling 2001-62 for that
15 annuity starting date, or
- 16 d. Limitation Years Beginning On or After July 1, 2007. For limitation
17 years beginning on or after July 1, 2007, the actuarially equivalent
18 straight life annuity is equal to the greater of:
- 19 (1) the annual amount of the straight life annuity, if any, payable to
20 the member under the System commencing at the same annuity
21 starting date as the member's form of benefit, and

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

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

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

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

- 1 (2) the annual amount of the straight life annuity commencing at
2 the same annuity starting date that has the same actuarial
3 present value as the member’s form of benefit, computed using a
4 five and one-half percent (5.5%) interest rate assumption and
5 the applicable mortality table described in Revenue Ruling
6 2001-62, and
- 7 (3) the annual amount of the straight life annuity commencing at
8 the same annuity starting date that has the same actuarial
9 present value as the member’s form of benefit, computed using:
- 10 (a) the rate of interest on thirty-year Treasury securities as
11 specified by the Commissioner for the lookback month for
12 the stability period specified below. The lookback month
13 applicable to the stability period is the fourth calendar
14 month preceding the first day of the stability period, as
15 specified below. The stability period is the successive
16 period of one plan year which contains the annuity
17 starting date for the distribution and for which the
18 applicable interest rate remains constant, and
- 19 (b) the applicable mortality table described in Revenue
20 Ruling 2001-62,
21 divided by one and five one-hundredths (1.05).
- 22 b. Annuity Starting Date in Plan Years Beginning in 2004 or 2005.

- 1 (1) If the annuity starting date of the member's form of benefit is in
2 a plan year beginning in 2004 or 2005, the actuarially
3 equivalent straight life annuity is equal to the annual amount of
4 the straight life annuity commencing at the same annuity
5 starting date that has the same actuarial present value as the
6 member's form of benefit, computed using whichever of the
7 following produces the greater annual amount:
- 8 (a) the interest rate and the mortality table or other tabular
9 factor, each as set forth in subsection H of Section 49-
10 100.9 of this title for adjusting benefits in the same form,
11 and
12 (b) a five and one-half percent (5.5%) interest rate
13 assumption and the applicable mortality table described
14 in Revenue Ruling 2001-62.
- 15 (2) If the annuity starting date of the member's benefit is on or after
16 the first day of the first plan year beginning in 2004 and before
17 December 31, 2004, the application of this subparagraph b shall
18 not cause the amount payable under the member's form of
19 benefit to be less than the benefit calculated under the System,
20 taking into account the limitations of this section, except that
21 the actuarially equivalent straight life annuity is equal to the
22 annual amount of the straight life annuity commencing at the

1 same annuity starting date that has the same actuarial present
2 value as the member's form of benefit, computed using
3 whichever of the following produces the greatest annual amount:

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

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

18 ii. the applicable mortality table described in Revenue
19 Ruling 2001-62, and

20 (c) i. the rate of interest on thirty-year Treasury
21 securities as specified by the Commissioner for the
22 lookback month for the stability period specified

1 below. The lookback month applicable to the
2 stability period is the fourth calendar month
3 preceding the first day of the stability period, as
4 specified below. The stability period is the
5 successive period of one plan year which contains
6 the annuity starting date for the distribution and
7 for which the applicable interest rate remains
8 constant (as in effect on the last day of the last plan
9 year beginning before January 1, 2004, under
10 provisions of the System then adopted and in
11 effect), and

- 12 ii. the applicable mortality table described in Revenue
13 Ruling 2001-62.

14 7. The foregoing limitation shall not be applicable with respect to any member
15 whose annual benefits from the System and under all other defined benefit plans of the
16 participating municipality are less than Ten Thousand Dollars (\$10,000.00) for the year
17 or from any prior year, if such member has not at any time participated in any defined
18 contribution plan maintained by the participating municipality.

19 C. If a member has less than ten (10) years of participation in the System and all
20 predecessor municipal firefighter pension and retirement systems, the dollar limitation
21 otherwise applicable under subsection B of this section shall be multiplied by a fraction,

1 the numerator of which is the number of the years of participation in the System of the
2 member, but never less than one (1), and the denominator of which is ten (10).

3 D. Adjustment of Dollar Limitation for Benefit Commencement Before Sixty-two
4 (62) Years of Age or After Sixty-five (65) Years of Age: Effective for benefits commencing
5 in limitation years ending after December 31, 2001, the dollar limitation under
6 subsection B of this section shall be adjusted if the annuity starting date of the member's
7 benefit is before sixty-two (62) years of age or after sixty-five (65) years of age. If the
8 annuity starting date is before sixty-two (62) years of age, the dollar limitation under
9 subsection B of this section shall be adjusted under paragraph 1 of this subsection, as
10 modified by paragraph 3 of this subsection, but subject to paragraph 4 of this subsection.
11 If the annuity starting date is after sixty-five (65) years of age, the dollar limitation
12 under subsection B of this section shall be adjusted under paragraph 2 of this subsection,
13 as modified by paragraph 3 of this subsection.

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

16 a. Limitation Years Beginning Before July 1, 2007. If the annuity
17 starting date for the member's benefit is prior to sixty-two (62) years of
18 age and occurs in a limitation year beginning before July 1, 2007, the
19 dollar limitation for the member's annuity starting date is the annual
20 amount of a benefit payable in the form of a straight life annuity
21 commencing at the member's annuity starting date that is the
22 actuarial equivalent of the dollar limitation under subsection B of this

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

- 5 (1) the interest rate and the mortality table or other tabular factor,
6 each as set forth in subsection H of Section 49-100.9 of this title,
7 or
- 8 (2) a five percent (5%) interest rate assumption and the applicable
9 mortality table as described in Revenue Ruling 2001-62.

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

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

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

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

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

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

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

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

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

1 (1) System Does Not Have Immediately Commencing Straight Life
2 Annuity Payable at Both Sixty-five (65) Years of Age and the
3 Age of Benefit Commencement. If the annuity starting date for
4 the member's benefit is after sixty-five (65) years of age and
5 occurs in a limitation year beginning on or after July 1, 2007,
6 and the System does not have an immediately commencing
7 straight life annuity payable at both sixty-five (65) years of age
8 and the age of benefit commencement, the dollar limitation at
9 the member's annuity starting date is the annual amount of a
10 benefit payable in the form of a straight life annuity
11 commencing at the member's annuity starting date that is the
12 actuarial equivalent of the dollar limitation under subsection B
13 of this section (adjusted under subsection C of this section for
14 years of participation less than ten (10), if required) with
15 actuarial equivalence computed using a five percent (5%)
16 interest rate assumption and the applicable mortality table for
17 the annuity starting date as described in Revenue Ruling 2001-
18 62 (and expressing the member's age based on completed
19 calendar months as of the annuity starting date).

20 (2) System Has Immediately Commencing Straight Life Annuity
21 Payable at Both Sixty-five (65) Years of Age and Age of Benefit
22 Commencement. If the annuity starting date for the member's

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BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 benefit is after sixty-five (65) years of age and occurs in a
2 limitation year beginning on or after July 1, 2007, and the
3 System has an immediately commencing straight life annuity
4 payable at both sixty-five (65) years of age and the age of benefit
5 commencement, the dollar limitation at the member's annuity
6 starting date is the lesser of the limitation determined under
7 division (1) of subparagraph b of this paragraph and the dollar
8 limitation under subsection B of this section (adjusted under
9 subsection C of this section for years of participation less than
10 ten (10), if required) multiplied by the ratio of the annual
11 amount of the adjusted immediately commencing straight life
12 annuity under the System at the member's annuity starting
13 date to the annual amount of the adjusted immediately
14 commencing straight life annuity under the System at sixty-five
15 (65) years of age, both determined without applying the
16 limitations of this section. For this purpose, the adjusted
17 immediately commencing straight life annuity under the System
18 at the member's annuity starting date is the annual amount of
19 such annuity payable to the member, computed disregarding the
20 member's accruals after sixty-five (65) years of age but including
21 actuarial adjustments even if those actuarial adjustments are
22 used to offset accruals; and the adjusted immediately

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

6 3. Notwithstanding the other requirements of this subsection, no adjustment shall
7 be made to the dollar limitation under subsection B of this section to reflect the
8 probability of a member's death between the annuity starting date and sixty-two (62)
9 years of age, or between sixty-five (65) years of age and the annuity starting date, as
10 applicable, if benefits are not forfeited upon the death of the member prior to the annuity
11 starting date. To the extent benefits are forfeited upon death before the annuity starting
12 date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated
13 as occurring upon the member's death if the System does not charge members for
14 providing a qualified 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 limitation years
17 beginning on or after January 1, 1997, if payment begins before the member reaches
18 sixty-two (62) years of age, the reductions in the limitations in this subsection shall not
19 apply to a member who is a "qualified participant" as defined in Section 415(b)(2)(H) of
20 the Internal Revenue Code of 1986, as amended.

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

4 1. The retirement benefits payable for a limitation year under any form of benefit
5 with respect to such member under this System and under all other defined benefit plans
6 (without regard to whether a plan has been terminated) ever maintained by a
7 participating municipality 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 credited years (or
10 part thereof, but not less than one (1) year) of service (not to exceed ten
11 (10)) with the participating municipality, and
12 b. the denominator of which is ten (10); and

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

20 F. In no event shall the maximum annual accrued retirement benefit of a member
21 allowable under this section be less than the annual amount of such accrued retirement
22 benefit, including early pension and qualified joint and survivor annuity amounts, duly

1 accrued by the member as of the last day of the limitation year beginning in 1982, or as
2 of the last day of the limitation year beginning in 1986, whichever is greater,
3 disregarding any plan changes or cost-of-living adjustments occurring after July 1, 1982,
4 as to the 1982 accrued amount, and May 5, 1986, as to the 1986 accrued amount.

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

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

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

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

20 I. Effective for years beginning after December 31, 1997, if a member repays to the
21 System any amounts received because of the member’s prior termination pursuant to
22 Section 49-117.1 of this title, such repayment shall not be taken into account for purposes

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

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

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

8 SECTION 4. AMENDATORY Section 3, Chapter 345, O.S.L. 2007 (11 O.S.
9 Supp. 2008, Section 49-106.4), is amended to read as follows:

10 Section 49-106.4 A. An individual who has been designated, pursuant to Section
11 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended, as the beneficiary of a
12 deceased member and who is not the surviving spouse of the member, may elect, in
13 accordance with Section 402(c)(11) of the Internal Revenue Code of 1986, as amended,
14 and at the time and in the manner prescribed by the Oklahoma Firefighters Pension and
15 Retirement Board, to have a direct trustee-to-trustee transfer of any portion of such
16 beneficiary's lump-sum distribution from the Oklahoma Firefighters Pension and
17 Retirement System after December 31, 2006, made to an individual retirement account
18 or individual retirement annuity (other than an endowment contract) described in
19 Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended (IRA), that is
20 established on behalf of such designated individual. If such transfer is made then:

21 1. The transfer is treated as an eligible rollover distribution for purposes of Section
22 402(c)(11) of the Internal Revenue Code of 1986, as amended;

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

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

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

10 C. The Oklahoma Firefighters Pension and Retirement Board shall promulgate
11 such rules as are necessary to implement the provisions of this section.

12 SECTION 5. AMENDATORY 11 O.S. 2001, Section 49-109, as last amended by
13 Section 5, Chapter 345, O.S.L. 2007 (11 O.S. Supp. 2008, Section 49-109), is amended to
14 read as follows:

15 Section 49-109. A. Whenever any firefighter serving in any capacity in a regularly
16 constituted fire department of a municipality shall become so physically or mentally
17 disabled while in, or in consequence of, the performance of the firefighter's duty as to
18 prevent the effective performance of the firefighter's duties, the State Board may, upon
19 the firefighter's written request, or without such request if the State Board deems it for
20 the good of the department, retire the firefighter from active service, and if so retired,
21 shall direct that the firefighter be paid from the System a monthly pension equal to the
22 greater of:

1 1. Fifty percent (50%) of the average monthly salary which was paid to the
2 firefighter during the last thirty (30) months of the firefighter's service; or

3 2. Two and one-half percent (2 1/2%) of the firefighter's final average salary
4 multiplied by the member's years of credited service, not to exceed thirty (30) years,
5 provided such firefighter has completed twenty (20) or more years of credited service.

6 B. If the disability ceases within two (2) years from the date of the firefighter's
7 disability retirement and before the firefighter's normal retirement date, the formerly
8 disabled person shall be restored to active service at the salary attached to the rank the
9 firefighter held at the time of the firefighter's disability retirement provided the
10 firefighter is capable of performing the duties of a firefighter. Whenever such disability
11 shall cease, such disability pension provided pursuant to paragraph 1 of subsection A of
12 this section shall cease. If a firefighter participates in the Oklahoma Firefighters
13 Deferred Option Plan pursuant to Section 49-106.1 of this title, the firefighter's disability
14 pension provided pursuant to this subsection shall be reduced to account for the
15 firefighter's participation in the Oklahoma Firefighters Deferred Option Plan.

16 C. Whenever any firefighter, who has served in any capacity in a regularly
17 constituted fire department of a municipality of the state, and who has served less than
18 the firefighter's normal retirement date, shall become so physically or mentally disabled
19 from causes not arising in the line of duty as to prevent the effective performance of the
20 firefighter's duties, the firefighter shall be entitled to a pension during the continuance of
21 said disability based upon the firefighter's service period which shall be fifty percent

1 (50%) of the average monthly salary which was paid to the firefighter during the last
2 sixty (60) months of the firefighter's service.

3 D. No firefighter shall accrue additional service time while receiving a disability
4 pension; provided further, that nothing herein contained shall affect the eligibility of any
5 firefighter to apply for and receive a retirement pension after the firefighter's normal
6 retirement date; provided further, that no firefighter shall receive retirement benefits
7 from the System during the time the firefighter is receiving disability benefits from the
8 System. Any member or beneficiary eligible to receive a monthly benefit pursuant to this
9 section may make an election to waive all or a portion of monthly benefits.

10 E. If the requirements of Section 4 49-106.5 of this ~~act~~ title are satisfied, a member
11 who, by reason of disability, is separated from service as a public safety officer with the
12 member's participating municipality, may elect to have payment made directly to the
13 provider for qualified health insurance premiums by deduction from his or her monthly
14 disability benefit, after December 31, 2006, in accordance with Section 402(1) of the
15 Internal Revenue Code of 1986, as amended.

16 SECTION 6. AMENDATORY 11 O.S. 2001, Section 49-138, as last amended by
17 Section 4, Chapter 203, O.S.L. 2005 (11 O.S. Supp. 2008, Section 49-138), is amended to
18 read as follows:

19 Section 49-138. A. Any member of a regularly constituted fire department of any
20 municipality who is now serving or may hereafter serve in the Armed Forces of the
21 United States whether such service is voluntary or involuntary, who shall have been a
22 member of such fire department at the time of entering such service, shall be entitled to

1 have the whole of the time of such service applied under the provisions of Section 49-106
2 of this title, so far as the same applies to a service pension; provided further, that the
3 municipality shall continue its payment into said pension fund, to the same force and
4 effect as though the member were in the actual service of such fire department; provided,
5 that any person who is eligible for such service but who shall have volunteered for
6 military or naval service for a period not to exceed five (5) years shall likewise be entitled
7 to all of the benefits of Sections 49-138 through 49-142 of this title for the full period of
8 such service or enlistment; provided further, that only one such period of voluntary
9 service shall be considered hereunder. If such person shall reenlist, unless he is required
10 to do so by law, he shall not thereafter be entitled to the provisions of this subsection.

11 The provisions of this subsection shall not apply where any such person dies during the
12 period of said service or enlistment, and shall not entitle the surviving spouse or children
13 to any benefits, and shall not apply to any member who shall have served on active duty
14 (including initial active duty) for training purposes only and/or inactive duty training.

15 B. Effective February 1, 1997, credited service received pursuant to this section or
16 credited service for wartime military service received as otherwise provided by law shall
17 be used in determining the member's retirement benefit but shall not be used in
18 determining years of service for retirement, vesting purposes or eligibility for
19 participation in the Oklahoma Firefighters Deferred Option Plan. For a member of the
20 System hired on or after July 1, 2003, if the military service credit authorized by this
21 section is used to compute the retirement benefit of the member and the member retires
22 from the System, such military service credit shall not be used to compute the retirement

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

4 C. A member who retires or elects to participate in the Oklahoma Firefighters
5 Deferred Option Plan on or after July 1, 1998, shall be entitled to prior service credit, not
6 to exceed five (5) years, for those periods of military service on active duty prior to
7 membership in the Oklahoma Firefighters Pension and Retirement System.

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

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

- 13 a. April 6, 1917, to November 11, 1918, commonly referred to as World
14 War I,
- 15 b. September 16, 1940, to December 7, 1941, for members of the 45th
16 Division,
- 17 c. December 7, 1941, to December 31, 1946, commonly referred to as
18 World War II,
- 19 d. June 27, 1950, to January 31, 1955, commonly referred to as the
20 Korean Conflict or the Korean War,
- 21 e. February 28, 1961, to May 7, 1975, commonly referred to as the
22 Vietnam era, except that:

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BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

- 1 (1) for the period from February 28, 1961, to August 4, 1964,
2 military service shall only include service in the Republic of
3 Vietnam during that period, and
4 (2) for purposes of determining eligibility for education and training
5 benefits, such period shall end on December 31, 1976, or
6 f. August 1, 1990, to December 31, 1991, commonly referred to as the
7 Gulf War, the Persian Gulf War, or Operation Desert Storm, but
8 excluding any person who served on active duty for training only,
9 unless discharged from such active duty for a service-connected
10 disability;

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

1 D. An eligible member pursuant to subsection C of this section shall include only
2 those persons who shall have served during the times or in the areas prescribed in
3 subsection C of this section, and only if such person provides appropriate documentation
4 in such time and manner as required by the System to establish such military service
5 prescribed in this section, or for service pursuant to division (1) of subparagraph e of
6 paragraph 1 of subsection C of this section, those persons who were awarded service
7 medals, as authorized by the United States Department of Defense as reflected in the
8 veteran's Defense Department Form 214, related to the Vietnam Conflict for service prior
9 to August 5, 1964. The provisions of subsection C of this section shall include military
10 retirees, whose retirement was based only on active service, that have been rated as
11 having twenty percent (20%) or greater service-connected disability by the Veterans
12 Administration or the Armed Forces of the United States. The provisions of subsection C
13 of this section shall not apply to any person who shall have served on active duty for
14 training purposes only unless discharged from active duty for a service-connected
15 disability.

16 E. Notwithstanding any provision herein to the contrary, ~~contributions:~~
17 1. Contributions, benefits and service credit with respect to qualified military
18 service shall be provided in accordance with Section 414(u) of the Internal Revenue Code
19 of 1986, which is in accordance with the Uniformed Services Employment and
20 Reemployment Rights Act of 1994, (USERRA) as amended. The municipality's
21 contributions to the System for a member covered by USERRA are due when such a

1 member makes up his or her contributions that were missed due to his or her qualified
2 military service; and

3 2. Effective January 1, 2007, if any member dies while performing qualified
4 military service, the survivors of the member are entitled to any additional benefits other
5 than benefit accruals relating to the period of qualified military service provided under
6 the System had the member resumed and then terminated employment on account of
7 death.

8 F. Members or beneficiaries shall make application to the System for credited
9 service related to wartime military service. Interest on additional benefits related to
10 wartime military service owed by the System to a retired member or beneficiary as
11 provided by law shall cease accruing one (1) year after the effective date the additional
12 benefits are payable by the System or July 1, 2000, whichever is later, if the member has
13 not applied to the System for credited service related to such wartime military service.

14 SECTION 7. It being immediately necessary for the preservation of the public
15 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
16 this act shall take effect and be in full force from and after its passage and approval.

17 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
18 dated 04-09-09 - DO PASS, As Amended.