

THE STATE SENATE
Wednesday, February 17, 2010

Senate Bill No. 2130
As Amended

SB 2130

SENATE BILL NO. 2130 - By: Barrington of the Senate and Armes of the House.

[retirement - Oklahoma Firefighters Pension and Retirement System - modifying definition - make irrevocable election - specifying certain election - survivor benefits - emergency]

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 49-100.1, as last amended by Section 1, Chapter 128, O.S.L. 2003 (11 O.S. Supp. 2009, Section 49-100.1), is amended to read as follows:

Section 49-100.1 As used in this article:

1. "System" means the Oklahoma Firefighters Pension and Retirement System and all predecessor municipal firefighters pension and retirement systems;

2. "Article" means Article 49 of this title;

3. "State Board" means the Oklahoma Firefighters Pension and Retirement Board;

4. "Local board" means the local firefighters pension and retirement boards;

5. "Fund" means the Oklahoma Firefighters Pension and Retirement Fund;

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

1 the Internal Revenue Code of 1986, as amended, are satisfied.
2 Effective July 1, 1999, any individual who agrees with the
3 participating municipality that the individual's services are to be
4 performed as a leased employee or an independent contractor shall
5 not be a member regardless of any classification as a common law
6 employee by the Internal Revenue Service or any other governmental
7 agency, or any court of competent jurisdiction;

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

17 8. "Credited service" means the period of service used to
18 determine the eligibility for and the amount of benefits payable to
19 a member. Credited service shall consist of the period during which
20 the member participated in the System or the predecessor municipal
21 systems as an active employee in an eligible membership
22 classification, plus any service prior to the establishment of the
23 predecessor municipal systems which was credited under the

1 predecessor municipal systems; provided, however, "credited service"
2 for members from a fire protection district shall not begin accruing
3 before July 1, 1982;

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

8 10. "Disability" means the complete inability of the
9 firefighter to perform any and every duty of ~~his~~ the firefighter's
10 regular occupation; provided further, that once benefits have been
11 paid for twenty-four (24) months the provisions of Section 49-110 of
12 this title shall apply to the firefighter;

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

15 12. "Eligible employer" means any municipality with a municipal
16 fire department or a fire protection district with an organized fire
17 department;

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

21 14. "Final average salary" means the average paid gross salary
22 of the firefighter for normally scheduled hours over the highest
23 salaried thirty (30) consecutive months of the last sixty (60)

1 months of credited service. Gross salary shall not include payment
2 for accumulated sick or annual leave upon termination of employment,
3 any uniform allowances or any other compensation for reimbursement
4 of out-of-pocket expenses. Only salary on which the required
5 contributions have been made may be used in computing the final
6 average salary. Effective January 1, 1988, gross salary shall
7 include any amount of elective salary reduction under Section 125 of
8 the Internal Revenue Code of 1986, as amended. Gross salary shall
9 include any amount of elective salary reduction under Section 457 of
10 the Internal Revenue Code of 1986, as amended, and any amount of
11 nonelective salary reduction under Section 414(h) of the Internal
12 Revenue Code of 1986, as amended. Effective July 1, 1998, for
13 purposes of determining a member's compensation, any contribution by
14 the member to reduce ~~his~~ the member's regular cash remuneration
15 under 132(f)(4) of the Internal Revenue Code of 1986, as amended,
16 shall be treated as if the member did not make such an election.
17 Only salary on which required contributions have been made may be
18 used in computing final average salary.

19 In addition to other applicable limitations, and notwithstanding
20 any other provision to the contrary, for plan years beginning on or
21 after July 1, 2002, the annual gross salary of each "Noneligible
22 Member" taken into account under the System shall not exceed the
23 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")

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

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

19 Effective January 1, 2008, gross salary shall also include gross
20 salary, as described above, but paid by the later of two and one-
21 half (2 1/2) months after a firefighter's severance from employment
22 or the end of the plan year that includes the date the firefighter
23 terminated employment, if it is a payment that, absent a severance

1 from employment, would have been paid to the firefighter while the
2 firefighter continued in employment with the participating
3 municipality.

4 Effective January 1, 2008, any payments not described in this
5 paragraph shall not be considered gross salary if paid after
6 severance from employment, even if they are paid by the later of two
7 and one-half (2 1/2) months after the date of severance from
8 employment or the end of the plan year that includes the date of
9 severance from employment.

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

15 Effective for years beginning after December 31, 2008, gross
16 salary shall also include differential wage payments under Section
17 414(u)(12) of the Internal Revenue Code of 1986, as amended;

18 15. "Accrued retirement benefit" means two and one-half percent
19 (2 1/2%) of the firefighter's final average salary multiplied by the
20 member's years of credited service not to exceed thirty (30) years;

21 16. "Beneficiary" means a member's surviving spouse or any
22 surviving children, including biological and adopted children, at
23 the time of the member's death. The surviving spouse must have been

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

19 17. "Accumulated contributions" means the sum of all
20 contributions made by a member to the System and includes both
21 contributions deducted from the compensation of a member and
22 contributions of a member picked up and paid by the participating
23 municipality of the member. Accumulated contributions shall not

1 include any interest on the contributions of the member, interest on
2 any amount contributed by the municipality or state and any amount
3 contributed by the municipality or state; and

4 18. "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 SECTION 2. AMENDATORY 11 O.S. 2001, Section 49-106.1, as
8 last amended by Section 1, Chapter 177, O.S.L. 2008 (11 O.S. Supp.
9 2009, Section 49-106.1), is amended to read as follows:

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

19 B. For purposes of this section, creditable service shall
20 include service credit reciprocally recognized pursuant to Sections
21 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2
22 of this title but for eligibility purposes only.

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

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

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

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

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

11 F. A member in the plan shall receive, at the option of the
12 member, a lump sum payment from the account equal to the payments to
13 the account or an annuity based upon the account of the member or
14 may elect any other method of payment if approved by the Board of
15 Trustees. If a member becomes so physically or mentally disabled
16 while in, or in consequence of, the performance of his or her duty
17 as to prevent the effective performance of his or her duties that
18 the State Board approves an in line of duty disability pension, the
19 payment from the account shall be an in line of duty disability
20 payment. Notwithstanding any other provision contained herein to
21 the contrary, commencement of distributions under the Oklahoma
22 Firefighters Deferred Option Plan shall be no later than the time as
23 set forth in subsection B of Section 49-106 of this title.

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

17 H. In lieu of participating in the Oklahoma Firefighters
18 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
19 this section, a member may ~~elect~~ make an irrevocable election to
20 participate in the Oklahoma Firefighters Deferred Option Plan
21 pursuant to this subsection as follows:

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

- 1 a. "back drop date" means the member's normal retirement
2 date or the date five (5) years before the member
3 elects to participate in the Oklahoma Firefighters
4 Deferred Option Plan, whichever date is later,
- 5 b. "termination date" means the date the member elects to
6 participate in the Oklahoma Firefighters Deferred
7 Option Plan pursuant to this subsection, and the date
8 the member terminates employment with all
9 participating municipalities as an active firefighter,
- 10 c. "earlier attained credited service" means the credited
11 service earned by a member as of the back drop date,
12 and
- 13 d. "deferred benefit balance" means all monthly
14 retirement benefits that would have been payable had
15 the member elected to cease employment on the back
16 drop date and receive a service retirement from the
17 back drop date to the termination date, all the
18 member's contributions and one-half (1/2) of the
19 employer contributions from the back drop date to the
20 termination date, with interest based on how the
21 benefit would have accumulated on a compound annual
22 basis as if the member had participated in the
23 Oklahoma Firefighters Deferred Option Plan pursuant to

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

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

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

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

1 2. If a member who has more than twenty (20) years of
2 creditable service and is eligible to receive a service retirement
3 pension dies on or after ~~the effective date of this act~~ June 4,
4 2007, and prior to terminating employment, the member's surviving
5 spouse shall be eligible to elect to receive a benefit determined as
6 if the member had elected to participate in the Oklahoma
7 Firefighters Deferred Option Plan in accordance with subsection H of
8 this section on the day immediately preceding such member's death.
9 The surviving spouse must make any such election within one (1) year
10 from the date of the member's death. If such election is made, the
11 monthly pension such surviving spouse is ~~receiving, or is~~ entitled
12 to receive, shall be adjusted in accordance with the provisions of
13 subsection H of this section to account for the member's
14 participation in the Oklahoma Firefighters Deferred Option Plan.
15 ~~The deferred benefit balance such surviving spouse is entitled to~~
16 ~~receive shall be reduced by the back drop pension adjustment amount~~
17 ~~and increased by the deferred benefit balance adjustment amount.~~
18 ~~The surviving spouse may only make a back drop election if the~~
19 ~~deferred benefit balance after the adjustment described in this~~
20 ~~paragraph is greater than Zero Dollars (\$0.00).~~ The surviving
21 spouse may only make this election if the member has not previously
22 elected to participate in the Oklahoma Firefighters Deferred Option
23 Plan. For purposes of this election, the surviving spouse must have

1 been married to the firefighter for the thirty (30) continuous
2 months preceding the firefighter's death; provided, the surviving
3 spouse of a member who died while in, or as a consequence of, the
4 performance of the member's duty for a participating municipality
5 shall not be subject to the marriage limitation for this election.

6 3. If a member has more than twenty (20) years of creditable
7 service and is eligible for a retirement for disability monthly
8 pension pursuant to Section 49-109 of this title on or after ~~the~~
9 ~~effective date of this act~~ June 4, 2007, such member shall be
10 eligible to elect to receive a benefit determined as if the member
11 had elected to participate in the Oklahoma Firefighters Deferred
12 Option Plan, in accordance with subsection H of this section, on the
13 day immediately preceding the date of the member's disability
14 retirement, provided such election is made within two (2) years from
15 the date of the member's disability retirement. The disability
16 monthly pension such member is ~~receiving, or~~ entitled to receive,
17 shall be adjusted in accordance with the provisions of subsection H
18 of this section to account for the member's participation in the
19 Oklahoma Firefighters Deferred Option Plan. ~~The deferred benefit~~
20 ~~balance such member is entitled to receive shall be reduced by the~~
21 ~~back drop pension adjustment amount and increased by the deferred~~
22 ~~benefit balance adjustment amount. The member may only make a back~~
23 ~~drop election if the deferred benefit balance after the adjustment~~

1 ~~described in this paragraph is greater than Zero Dollars (\$0.00).~~
2 The member may only make this election if the member has not
3 previously elected to participate in the Oklahoma Firefighters
4 Deferred Option Plan, and prior to commencing his or her monthly
5 disability pension.

6 4. If a member has more than twenty (20) years of creditable
7 service and filed a grievance for wrongful termination occurring on
8 or after ~~the effective date of this act~~ June 4, 2007, but is not
9 reinstated as an active member, such member shall be eligible to
10 elect to receive a benefit determined as if the member had elected
11 to participate in the Oklahoma Firefighters Deferred Option Plan in
12 accordance with subsection H of this section on the day immediately
13 preceding the date of the member's termination. Such election must
14 be made within two (2) years from the date of the member's
15 termination as an active member and, if the member's case pertaining
16 to the member's termination is on appeal to a court of competent
17 jurisdiction, within such period set by the State Board in its sole
18 discretion. The monthly pension such member is ~~receiving, or~~
19 ~~entitled to receive,~~ shall be adjusted in accordance with the
20 provisions of subsection H of this section to account for the
21 member's participation in the Oklahoma Firefighters Deferred Option
22 Plan. ~~The deferred benefit balance such member is entitled to~~
23 ~~receive shall be reduced by the back drop pension adjustment amount~~

1 ~~and increased by the deferred benefit balance adjustment amount.~~
 2 ~~The member may only make a back drop election if the deferred~~
 3 ~~benefit balance after the adjustment described in this paragraph is~~
 4 ~~greater than Zero Dollars (\$0.00).~~ The member may only make this
 5 election if the member has not previously elected to participate in
 6 the Oklahoma Firefighters Deferred Option Plan, and prior to
 7 commencing his or her monthly pension or monthly disability pension.

8 SECTION 3. AMENDATORY 11 O.S. 2001, Section 49-106.2, as
 9 last amended by Section 2, Chapter 177, O.S.L. 2008 (11 O.S. Supp.
 10 2009, Section 49-106.2), is amended to read as follows:

11 Section 49-106.2 A. For limitation years prior to July 1,
 12 2007, the limitations of Section 415 of the Internal Revenue Code of
 13 1986, as amended, shall be computed in accordance with the
 14 applicable provisions of the System in effect at that time and, to
 15 the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-
 16 51, except as provided below. Notwithstanding any other provision
 17 contained herein to the contrary, the benefits payable to a member
 18 from the System provided by employer contributions (including
 19 contributions picked up by the employer under Section 414(h) of the
 20 Internal Revenue Code of 1986, as amended) shall be subject to the
 21 limitations of Section 415 of the Internal Revenue Code of 1986, as
 22 amended, in accordance with the provisions of this section. The
 23 limitations of this section shall apply in limitation years

1 beginning on or after July 1, 2007, except as otherwise provided
2 below.

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

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

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

- 10 2. No actuarial adjustment to the benefit shall be made for:
- 11 a. survivor benefits payable to a surviving spouse under
12 a qualified joint and survivor annuity to the extent
13 such benefits would not be payable if the member's
14 benefit were paid in another form,
 - 15 b. benefits that are not directly related to retirement
16 benefits such as a qualified disability benefit,
17 preretirement incidental death benefits, and
18 postretirement medical benefits, or
 - 19 c. the inclusion in the form of a benefit of an automatic
20 benefit increase feature, provided, the form of
21 benefit is not subject to Section 417(e)(3) of the
22 Internal Revenue Code of 1986, as amended, and would
23 otherwise satisfy the limitations of this section, and

1 the System provides that the amount payable under the
2 form of benefit in any limitation year shall not
3 exceed the limits of this section applicable at the
4 annuity starting date, as increased in subsequent
5 years pursuant to Section 415(d) of the Internal
6 Revenue Code of 1986, as amended. For this purpose,
7 an 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

1 annuity that is actuarially equivalent to the member's form of
2 benefit shall be determined under this paragraph if the form of the
3 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~~ 411(a)(11)(9) of the
18 Internal Revenue Code of 1986, as amended.

19 c. Limitation ~~Year~~ Years Beginning Before July 1, 2007.
20 For limitation years beginning before July 1, 2007,
21 the actuarially equivalent straight life annuity is
22 equal to the annual amount of the straight life
23 annuity commencing at the same annuity starting date

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

- 4 (1) the interest rate and the mortality table or
5 other tabular factor, each as set forth in
6 subsection H of Section 49-100.9 of this title
7 for adjusting benefits in the same form, and
8 (2) a five percent (5%) interest rate assumption and
9 the applicable mortality table described in
10 Revenue Ruling 2001-62 (or its successor for
11 these purposes, if applicable) for that annuity
12 starting date, or

13 d. Limitation Years Beginning On or After July 1, 2007.
14 For limitation years beginning on or after July 1,
15 2007, the actuarially equivalent straight life annuity
16 is equal to the greater of:

- 17 (1) the annual amount of the straight life annuity,
18 if any, payable to the member under the System
19 commencing at the same annuity starting date as
20 the member's form of benefit, and
21 (2) the annual amount of the straight life annuity
22 commencing at the same annuity starting date that
23 has the same actuarial present value as the

1 member's form of benefit, computed using a five
2 percent (5%) interest rate assumption and the
3 applicable mortality table described in Revenue
4 Ruling 2001-62 for that annuity starting date.

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

12 a. Annuity Starting Date in Plan Years Beginning After
13 ~~2005~~ December 31, 2007 (Plan Years beginning on or
14 after July 1, 2008). If the annuity starting date of
15 the member's form of benefit is in a plan year
16 beginning after ~~2005~~ December 31, 2007, the
17 actuarially equivalent straight life annuity is equal
18 to the greatest of (1), (2) or (3) below:

19 (1) 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 the
23 interest rate and the mortality table or other

1 tabular factor each as set forth in subsection H
2 of Section 49-100.9 of this title for adjusting
3 benefits in the same form,

4 (2) 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 a five
8 and one-half percent (5.5%) interest rate
9 assumption and the applicable mortality table
10 described in Revenue Ruling 2001-62 (or its
11 successor for these purposes, if applicable), and

12 (3) the annual amount of the straight life annuity
13 commencing at the same annuity starting date that
14 has the same actuarial present value as the
15 member's form of benefit, computed using:

16 (a) the adjusted first, second, and third
17 segment rates under Section 417(e)(3)(C) and
18 (D) of the Internal Revenue Code of 1986, as
19 amended, applied under rules similar to the
20 rules of Section 430(h)(2)(C) of the
21 Internal Revenue Code of 1986, as amended,
22 for the fourth calendar month preceding the
23 plan year in which falls the annuity

1 starting date for the distribution and the
2 stability period is the successive period of
3 one plan year which contains the annuity
4 starting date for the distribution and for
5 which the applicable interest rate remains
6 constant, or as otherwise provided in the
7 applicable guidance if the first day of the
8 first plan year beginning after December 31,
9 2007, does not coincide with the first day
10 of the applicable stability period, and
11 (b) the applicable mortality table described in
12 Revenue Ruling 2001-62 (or its successor for
13 these purposes, if applicable), divided by
14 one and five one-hundredths (1.05).

15 b. Annuity Starting Date in Plan Years Beginning in 2006
16 or 2007. If the annuity starting date of the member's
17 form of benefit is in a plan year beginning in 2006 or
18 2007, the actuarially equivalent straight life annuity
19 is equal to the greatest of (1), (2) or (3) below:
20 (1) the annual amount of the straight life annuity
21 commencing at the same annuity starting date that
22 has the same actuarial present value as the
23 member's form of benefit, computed using the

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

5 (2) the annual amount of the straight life annuity
6 commencing at the same annuity starting date that
7 has the same actuarial present value as the
8 member's form of benefit, computed using a five
9 and one-half percent (5.5%) interest rate
10 assumption and the applicable mortality table
11 described in Revenue Ruling 2001-62 (or its
12 successor for these purposes, if applicable), and

13 (3) 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:

17 (a) the rate of interest on thirty-year Treasury
18 securities as specified by the Commissioner
19 for the lookback month for the stability
20 period specified below. The lookback month
21 applicable to the stability period is the
22 fourth calendar month preceding the first
23 day of the stability period, as specified

1 below. The stability period is the
 2 successive period of one plan year which
 3 contains the annuity starting date for the
 4 distribution and for which the applicable
 5 interest rate remains constant, and

6 (b) the applicable mortality table described in
 7 Revenue Ruling 2001-62 (or its successor for
 8 these purposes, if applicable),
 9 divided by one and five one-hundredths (1.05).

10 ~~b.~~

11 c. Annuity Starting Date in Plan Years Beginning in 2004
 12 or 2005.

13 (1) If the annuity starting date of the member's form
 14 of benefit is in a plan year beginning in 2004 or
 15 2005, the actuarially equivalent straight life
 16 annuity is equal to the annual amount of the
 17 straight life annuity commencing at the same
 18 annuity starting date that has the same actuarial
 19 present value as the member's form of benefit,
 20 computed using whichever of the following
 21 produces the greater annual amount:

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

1 subsection H of Section 49-100.9 of this
2 title for adjusting benefits in the same
3 form, and

4 (b) a five and one-half percent (5.5%) interest
5 rate assumption and the applicable mortality
6 table described in Revenue Ruling 2001-62
7 (or its successor for these purposes, if
8 applicable).

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

- 1 (a) the interest rate and mortality table or
2 other tabular factor, each as set forth in
3 subsection H of Section 49-100.9 of this
4 title for adjusting benefits in the same
5 form,
- 6 (b) i. the rate of interest on thirty-year
7 Treasury securities as specified by the
8 Commissioner for the lookback month for
9 the stability period specified below.
10 The lookback month applicable to the
11 stability period is the fourth calendar
12 month preceding the first day of the
13 stability period, as specified below.
14 The stability period is the successive
15 period of one plan year which contains
16 the annuity starting date for the
17 distribution and for which the
18 applicable interest rate remains
19 constant, and
- 20 ii. the applicable mortality table
21 described in Revenue Ruling 2001-62 (or
22 its successor for these purposes, if
23 applicable), and

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

1 C. If a member has less than ten (10) years of participation in
2 the System and all predecessor municipal firefighter pension and
3 retirement systems, the dollar limitation otherwise applicable under
4 subsection B of this section shall be multiplied by a fraction, the
5 numerator of which is the number of the years of participation in
6 the System of the member, but never less than one (1), and the
7 denominator of which is ten (10).

8 D. Adjustment of Dollar Limitation for Benefit Commencement
9 Before Sixty-two (62) Years of Age or After Sixty-five (65) Years of
10 Age: Effective for benefits commencing in limitation years ending
11 after December 31, 2001, the dollar limitation under subsection B of
12 this section shall be adjusted if the annuity starting date of the
13 member's benefit is before sixty-two (62) years of age or after
14 sixty-five (65) years of age. If the annuity starting date is
15 before sixty-two (62) years of age, the dollar limitation under
16 subsection B of this section shall be adjusted under paragraph 1 of
17 this subsection, as modified by paragraph 3 of this subsection, but
18 subject to paragraph 4 of this subsection. If the annuity starting
19 date is after sixty-five (65) years of age, the dollar limitation
20 under subsection B of this section shall be adjusted under paragraph
21 2 of this subsection, as modified by paragraph 3 of this subsection.

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

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

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

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

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

1 2001-62 (or its successor for these purposes, if
2 applicable) (and expressing the member's age
3 based on completed calendar months as of the
4 annuity starting date).

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

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

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

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

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

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

2 or

3 (2) a five percent (5%) interest rate assumption and
4 the applicable mortality table as described in
5 Revenue Ruling 2001-62 (or its successor for
6 these purposes, if applicable).

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-five
10 (65) Years of Age and the Age of Benefit
11 Commencement. If the annuity starting date for
12 the member's benefit is after sixty-five (65)
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-five
17 (65) years of age and the age of benefit
18 commencement, the dollar limitation at 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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 H. Effective for years beginning after December 31, 1997, if a
22 member purchases service under Sections 49-117.2 and 49-117.3 of
23 this title, which qualifies as "permissive service credit" pursuant

1 to Section 415(n) of the Internal Revenue Code of 1986, as amended,
2 the limitations of Section 415 of the Internal Revenue Code of 1986,
3 as amended, may be met by either:

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

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

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

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

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

1 SECTION 4. AMENDATORY 11 O.S. 2001, Section 49-106.3, as
 2 last amended by Section 3, Chapter 177, O.S.L. 2008 (11 O.S. Supp.
 3 2009, Section 49-106.3), is amended to read as follows:

4 Section 49-106.3 A. For distributions made on or after January
 5 1, 1993, and notwithstanding any provision of the System to the
 6 contrary that would otherwise limit a Distributee's election
 7 hereunder, a Distributee, including a nonspouse designated
 8 beneficiary, to the extent permitted under paragraph 3 of subsection
 9 B of this section, may elect, at the time and in the manner
 10 prescribed by the State Board, to have any portion of an Eligible
 11 Rollover Distribution paid directly to ~~an~~:

12 1. An Eligible Retirement Plan, or
 13 2. Effective for distributions after December 31, 2007, a Roth
 14 IRA described in Section 408A of the Internal Revenue Code of 1986,
 15 as amended, subject to any limitations described in Section 408A(c)
 16 of the Internal Revenue Code of 1986, as amended specified by the
 17 Distributee in a Direct Rollover.

18 B. For purposes of this section, the following definitions
 19 shall apply:

20 1. "Eligible Rollover Distribution" means any distribution of
 21 all or any portion of the balance to the credit of the Distributee,
 22 except that an Eligible Rollover Distribution does not include any
 23 distribution that is one of a series of substantially equal periodic

1 payments (not less frequently than annually) made for the life (or
 2 life expectancy) of the Distributee or the joint lives (or life
 3 expectancies) of the Distributee and the Distributee's designated
 4 beneficiary, or for a specified period of ten (10) years or more;
 5 any distribution to the extent such distribution is required under
 6 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;
 7 and the portion of any distribution that is not includable in gross
 8 income. Effective January 1, 2002, a portion of a distribution
 9 shall not fail to be an Eligible Rollover Distribution merely
 10 because the portion consists of after-tax member contributions which
 11 are not includable in gross income. However, such portion may be
 12 ~~paid~~ transferred only:

- 13 (a) from January 1, 2002, through December 31, 2006, ~~to:~~
- 14 (1) to an individual retirement account or annuity
 15 described in Section 408(a) or (b) of the
 16 Internal Revenue Code of 1986, as amended, or
- 17 (2) in a direct trustee-to-trustee transfer, to a
 18 qualified trust which is a part of a defined
 19 contribution plan ~~described in Section 401(a) or~~
 20 ~~403(a) of the Internal Revenue Code of 1986, as~~
 21 ~~amended, and which~~ that agrees to separately
 22 account for amounts so transferred, including
 23 separately accounting for the portion of such

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

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

5 (1) to an individual retirement account or annuity

6 described in Section 408(a) or (b) of the

7 Internal Revenue Code of 1986, as amended, or

8 (2) in a direct trustee-to-trustee transfer, to a

9 qualified trust ~~described in Section 401(a) or~~

10 ~~403(a) of the Internal Revenue Code of 1986, as~~

11 ~~amended,~~ or an annuity contract described in

12 Section 403(b) of the Internal Revenue Code of

13 1986, as amended, and if such trust or annuity

14 contract provides for separate accounting for

15 amounts so transferred (and earnings thereon),

16 including separately accounting for the portion

17 of such distribution which is includable in gross

18 income and the portion of such distribution which

19 is not so includable~~,~~,

20 Effective for distributions after December 31, 2007,

21 such after-tax portion may also be transferred to

22 a Roth IRA described in Section 408A of the

23 Internal Revenue Code of 1986, as amended,

1 subject to any limitations described in Section
2 408A(c) of the Internal Revenue Code of 1986, as
3 amended, that agrees to separately account for
4 amounts so transferred, including separately
5 accounting for the portion of such distribution
6 which is includible in gross income and the
7 portion of such distribution which is not so
8 includible.

9 2. "Eligible Retirement Plan" means an individual retirement
10 account described in Section 408(a) of the Internal Revenue Code of
11 1986, as amended, an individual retirement annuity described in
12 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
13 annuity plan described in Section 403(a) of the Internal Revenue
14 Code of 1986, as amended, or a qualified trust described in Section
15 401(a) of the Internal Revenue Code of 1986, as amended, that
16 accepts the Distributee's Eligible Rollover Distribution. Effective
17 January 1, 2002, an Eligible Retirement Plan shall also mean an
18 annuity contract described in Section 403(b) of the Internal Revenue
19 Code of 1986, as amended, and an eligible plan under Section 457(b)
20 of the Internal Revenue Code of 1986, as amended, which is
21 maintained by a state, political subdivision of a state, or any
22 agency or instrumentality of a state or political subdivision of a

1 state and which agrees to separately account for amounts transferred
2 into such plan from the System;

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

1 with Notice 2007-7, Q&A 17 and 18, ~~Announcement~~ 2007-5 Internal
2 Revenue Bulletin 395. The required minimum distribution rules of
3 Section 401(a)(9)(B) (other than clause iv thereof) of the Internal
4 Revenue Code of 1986, as amended, apply to the transferee IRA; and

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

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

18 1. The State Board clearly informs the Distributee (other than
19 a nonspouse designated beneficiary prior to January 1, 2010) that
20 the Distributee has a right to a period of at least thirty (30) days
21 after receiving the notice to consider the decision of whether or
22 not to elect a distribution; and

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

3 D. Prior to January 1, 2010, a distribution with respect to a
4 nonspouse designated beneficiary shall be made in accordance with
5 Notice 2007-7, Q&A 15, 2007-5 Internal Revenue Bulletin 395.
6 Effective January 1, 2010, a distribution with respect to a
7 nonspouse designated beneficiary shall be subject to Sections
8 401(a)(31), 402(f) and 3405(c) of the Internal Revenue Code of 1986,
9 as amended.

10 SECTION 5. AMENDATORY Section 3, Chapter 345, O.S.L.
11 2007 (11 O.S. Supp. 2009, Section 49-106.4), is amended to read as
12 follows:

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

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

5 1. The transfer is treated as an eligible rollover distribution
6 for purposes of Section 402(c)(11) of the Internal Revenue Code of
7 1986, as amended;

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

13 3. The required minimum distribution rules of Section
14 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue
15 Code of 1986, as amended, apply to the transferee IRA.

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

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

22 SECTION 6. AMENDATORY 11 O.S. 2001, Section 49-122, is
23 amended to read as follows:

1 Section 49-122. A. Each municipality having a paid member of a
2 fire department shall deduct monthly from the salary of each member
3 of the fire department of such municipality an amount equal to eight
4 percent (8%) of the actual paid gross salary of each member of the
5 fire department. The deduction shall be considered the minimum
6 deduction. At the option of the municipality, the municipality may
7 pay all or any part of the member's required contribution. ~~The~~
8 ~~members of a fire department, by a majority vote of its paid~~
9 ~~members, may vote to increase the amount of the deduction.~~ The
10 treasurer of each municipality shall deduct the authorized
11 deductions from the salary of each paid member of the fire
12 department. The treasurer of the municipality shall deposit within
13 ten (10) days from each ending payroll date in the System the amount
14 deducted from the salary of each member of the fire department.
15 Amounts deducted from the salary of a member and not paid to the
16 System after thirty (30) days from each ending payroll date shall be
17 subject to a monthly late charge of one and one-half percent (1
18 1/2%) of the unpaid balance to be paid by the municipality to the
19 System.

20 Each municipality shall pick up under the provisions of Section
21 414(h)(2) of the Internal Revenue Code of 1986, as amended, and pay
22 the contribution which the member is required by law to make to the
23 System for all compensation earned after December 31, 1988.

1 Although the contributions so picked up are designated as member
2 contributions, such contributions shall be treated as contributions
3 being paid by the municipality in lieu of contributions by the
4 member in determining tax treatment under the Internal Revenue Code
5 of 1986 and such picked up contributions shall not be includable in
6 the gross income of the member until such amounts are distributed or
7 made available to the member or the beneficiary of the member. The
8 member, by the terms of this system, shall not have any option to
9 choose to receive the contributions so picked up directly and the
10 picked up contributions must be paid by the municipality to the
11 System.

12 Member contributions which are picked up shall be treated in the
13 same manner and to the same extent as member contributions made
14 prior to the date on which member contributions were picked up by
15 the municipality. Member contributions so picked up shall be
16 included in salary for purposes of the System.

17 The municipality shall pay the member contributions from the
18 same source of funds used in paying salary to the member, by
19 effecting an equal cash reduction in gross salary of the member, or
20 by an offset against future salary increases, or by a combination of
21 reduction in gross salary and offset against future salary
22 increases.

1 The treasurer of each municipality shall deduct the picked up
2 contributions from the salary of each paid member of the fire
3 department. The treasurer of the municipality shall deposit monthly
4 in the System the amount picked up from the salary of each member of
5 the fire department.

6 B. Each municipality having a paid member of a fire department
7 shall deposit monthly with the State Board an amount equal to the
8 following:

9 1. Prior to July 1, 1991, ten percent (10%) of the total actual
10 paid gross salaries of the members of the fire department;

11 2. Beginning July 1, 1991 through June 30, 1992, ten and one-
12 half percent (10 1/2%) of the total actual paid gross salaries of
13 the members of the fire department;

14 3. Beginning July 1, 1992 through June 30, 1993, eleven percent
15 (11%) of the total actual paid gross salaries of the members of the
16 fire department;

17 4. Beginning July 1, 1993 through June 30, 1994, eleven and
18 one-half percent (11 1/2%) of the total actual paid gross salaries
19 of the members of the fire department;

20 5. Beginning July 1, 1994 through June 30, 1995, twelve percent
21 (12%) of the total actual paid gross salaries of the members of the
22 fire department;

1 6. Beginning July 1, 1995 through June 30, 1996, twelve and
2 one-half percent (12 1/2%) of the total actual paid gross salaries
3 of the members of the fire department; and

4 7. Beginning July 1, 1996, thirteen percent (13%) of the total
5 actual paid gross salaries of the members of the fire department.

6 C. Each county or municipality having a volunteer member of a
7 fire department shall deposit yearly with the State Board Sixty
8 Dollars (\$60.00) for each volunteer member of the department.

9 Provided, the above-mentioned volunteer county or municipal
10 contributions shall be reevaluated by the next scheduled actuarial
11 study and the amounts adjusted so that in a nine-year period of
12 time, the amounts would reflect the actuarial recommendations at
13 that time. Any county or municipality with an income of less than
14 Twenty-five Thousand Dollars (\$25,000.00) to its general fund during
15 a fiscal year shall be exempt from the provisions of this
16 subsection.

17 Any municipality that fails to comply with the provisions of
18 this section shall not be entitled to its proportionate share of the
19 Motor Fuel Excise Tax which is received through the Oklahoma Tax
20 Commission. Any county or municipality may exceed the amount of
21 contribution required by this section.

22 The provisions of this section shall supercede any city charter
23 provision in direct conflict with this section.

1 SECTION 7. AMENDATORY 11 O.S. 2001, Section 49-126, as
2 last amended by Section 5, Chapter 356, O.S.L. 2007 (11 O.S. Supp.
3 2009, Section 49-126), is amended to read as follows:

4 Section 49-126. A. Except as otherwise provided by this
5 section, no portion of said pension shall, either before or after
6 its order of distribution by the State Board to such disabled
7 members of said fire department, or the surviving spouse, alternate
8 payee as defined in subsection B of this section, or guardian of
9 such minor child or children, to the deceased or retired member of
10 such department, be held, seized, taken, subjected to or detained or
11 levied on by virtue of any attachment, execution, injunction, writ
12 interlocutory or other order or decree, or any process or proceeding
13 whatever, issued out of or by any court of this state for the
14 payment or satisfaction, in whole or in part, of any debt, damages,
15 claim, demand or judgment against such member, or his or her
16 surviving spouse, alternate payee, or the guardian of said minor
17 child or children of any deceased member, nor shall said fund or any
18 claim thereto be directly or indirectly assigned and any attempt to
19 assign or transfer the same shall be void; but the funds shall be
20 held, kept, secured and distributed for the purpose of pensioning
21 the persons named in this article, and for no other purpose
22 whatever. Notwithstanding the foregoing, effective August 5, 1997,
23 the State Board may approve any offset of a member's benefit to pay

1 a judgment or settlement against a member for a crime involving the
2 System, for a breach of the member's fiduciary duty to the System,
3 or for funds or monies incorrectly paid to a member or beneficiary
4 by mistake, provided such offset is in accordance with the
5 requirements of Section 401(a)(13) of the Internal Revenue Code of
6 1986, as amended.

7 B. 1. The provisions of subsection A of this section shall not
8 apply to a qualified domestic order as provided pursuant to this
9 subsection.

10 2. The term "qualified domestic order" means an order issued by
11 a district court of this state pursuant to the domestic relation
12 laws of this state which relates to the provision of marital
13 property rights to an alternate payee and which creates or
14 recognizes the existence of the right of an alternate payee and
15 assigns to an alternate payee the right to receive a portion of the
16 benefits payable with respect to a member of the System.

17 3. The term "alternate payee" means any spouse, former spouse,
18 minor or disabled child or children, or other dependent of the
19 member who is recognized by a domestic relations order as having a
20 right to receive benefits payable with respect to a member of the
21 System.

22 4. For purposes of the payment of marital property, to qualify
23 as an alternate payee, a spouse or former spouse must have been

1 married to the related member for a period of not less than thirty
2 (30) continuous months immediately preceding the commencement of the
3 proceedings from which the qualified domestic order issues.

4 5. A qualified domestic order is valid and binding on the State
5 Board and the related member only if it meets the requirements of
6 this subsection.

7 6. A qualified domestic order shall clearly specify:

- 8 a. the name and last-known mailing address (if any) of
9 the member and the name and mailing address of the
10 alternate payee covered by the order,
11 b. the amount or percentage of the member's benefits to
12 be paid by the System to the alternate payee,
13 c. the number of payments or period to which such order
14 applies,
15 d. the characterization of the benefit as to marital
16 property rights or child support, and
17 e. each plan to which such order applies.

18 7. A qualified domestic order meets the requirements of this
19 subsection only if such order:

- 20 a. does not require the System to provide any type or
21 form of benefit, or any option not otherwise provided
22 under state law as relates to the System,

- 1 b. does not require the System to provide increased
2 benefits, and
- 3 c. does not require the payment of benefits to an
4 alternate payee which are required to be paid to
5 another alternate payee pursuant to another order
6 previously determined to be a qualified domestic order
7 or an order recognized by the System as a valid order
8 prior to ~~the effective date of this act~~ June 7, 1993.

9 8. A qualified domestic order shall not require payment of
10 benefits to an alternate payee prior to the actual retirement date
11 of the related member.

12 9. The alternate payee shall have a right to receive benefits
13 payable to a member of the System under the Oklahoma Firefighters
14 Deferred Option plan provided for pursuant to Section 49-106.1 of
15 this title, but only to the extent such benefits have been credited
16 or paid into the member's Oklahoma Firefighters Deferred Option Plan
17 account during the term of the marriage.

18 10. The obligation of the System to pay an alternate payee
19 pursuant to a qualified domestic order shall cease upon the earlier
20 of the death of the related member or the death of the alternate
21 payee. Upon the death of the alternate payee, the assignment to the
22 alternate payee of the right to receive a portion of the benefits

1 payable with respect to the member shall cease and the payments of
2 benefits to the member shall be reinstated.

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

8 12. The Oklahoma Firefighters Pension and Retirement Board
9 shall promulgate such rules as are necessary to implement the
10 provisions of this subsection.

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

16 C. The provisions of subsection A of this section shall not
17 apply to a Child Support Enforcement Division order for a support
18 arrearage pursuant to Section 240.23 of Title 56 of the Oklahoma
19 Statutes and current child support payments made pursuant to a valid
20 court order.

21 D. The provisions of subsection A of this section shall not
22 apply to a federal tax levy made pursuant to Section 6331 of the

1 Internal Revenue Code of 1986, as amended, and the collection by the
2 United States on a judgment resulting from an unpaid tax assessment.

3 E. The provisions of subsection A of this section shall not
4 apply in the case of an overpayment to a member or other payee.
5 Such overpayment may be corrected through a return of the
6 overpayment, or an adjustment of future payments, or a combination
7 of these two methods, as approved by the State Board. The term
8 "other payee" shall include, but not be limited to, alternate payees
9 as defined in subsection B of this section, beneficiaries,
10 designated recipients, and other individuals eligible to receive
11 benefits pursuant to Section 49-113 of this title.

12 SECTION 8. AMENDATORY 11 O.S. 2001, Section 49-138, as
13 last amended by Section 4, Chapter 203, O.S.L. 2005 (11 O.S. Supp.
14 2009, Section 49-138), is amended to read as follows:

15 Section 49-138. A. Any member of a regularly constituted fire
16 department of any municipality who is now serving or may hereafter
17 serve in the Armed Forces of the United States whether such service
18 is voluntary or involuntary, who shall have been a member of such
19 fire department at the time of entering such service, shall be
20 entitled to have the whole of the time of such service applied under
21 the provisions of Section 49-106 of this title, so far as the same
22 applies to a service pension; provided further, that the
23 municipality shall continue its payment into said pension fund, to

1 the same force and effect as though the member were in the actual
2 service of such fire department; provided, that any person who is
3 eligible for such service but who shall have volunteered for
4 military or naval service for a period not to exceed five (5) years
5 shall likewise be entitled to all of the benefits of Sections 49-138
6 through 49-142 of this title for the full period of such service or
7 enlistment; provided further, that only one such period of voluntary
8 service shall be considered hereunder. If such person shall
9 reenlist, unless ~~he is~~ required to do so by law, he such person
10 shall not thereafter be entitled to the provisions of this
11 subsection. The provisions of this subsection shall not apply where
12 any such person dies during the period of said service or
13 enlistment, and shall not entitle the surviving spouse or children
14 to any benefits, and shall not apply to any member who shall have
15 served on active duty (including initial active duty) for training
16 purposes only and/or inactive duty training.

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

1 2003, if the military service credit authorized by this section is
2 used to compute the retirement benefit of the member and the member
3 retires from the System, such military service credit shall not be
4 used to compute the retirement benefit in any other retirement
5 system created pursuant to the Oklahoma Statutes and the member may
6 receive credit for such service only in the retirement system from
7 which the member first retires.

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

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

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

- 20 a. April 6, 1917, to November 11, 1918, commonly referred
21 to as World War I,
22 b. September 16, 1940, to December 7, 1941, for members
23 of the 45th Division,

- 1 c. December 7, 1941, to December 31, 1946, commonly
2 referred to as World War II,
- 3 d. June 27, 1950, to January 31, 1955, commonly referred
4 to as the Korean Conflict or the Korean War,
- 5 e. February 28, 1961, to May 7, 1975, commonly referred
6 to as the Vietnam era, except that:
- 7 (1) for the period from February 28, 1961, to August
8 4, 1964, military service shall only include
9 service in the Republic of Vietnam during that
10 period, and
- 11 (2) for purposes of determining eligibility for
12 education and training benefits, such period
13 shall end on December 31, 1976, or
- 14 f. August 1, 1990, to December 31, 1991, commonly
15 referred to as the Gulf War, the Persian Gulf War, or
16 Operation Desert Storm, but excluding any person who
17 served on active duty for training only, unless
18 discharged from such active duty for a service-
19 connected disability;

20 2. During a period of war or combat military operation other
21 than a conflict, war or era listed in paragraph 1 of this
22 subsection, beginning on the date of Congressional authorization,
23 Congressional resolution, or Executive Order of the President of the

1 United States, for the use of the Armed Forces of the United States
2 in a war or combat military operation, if such war or combat
3 military operation lasted for a period of ninety (90) days or more,
4 for a person who served, and only for the period served, in the area
5 of responsibility of the war or combat military operation, but
6 excluding a person who served on active duty for training only,
7 unless discharged from such active duty for a service-connected
8 disability, and provided that the burden of proof of military
9 service during this period shall be with the member, who must
10 present appropriate documentation establishing such service.

11 D. An eligible member pursuant to subsection C of this section
12 shall include only those persons who shall have served during the
13 times or in the areas prescribed in subsection C of this section,
14 and only if such person provides appropriate documentation in such
15 time and manner as required by the System to establish such military
16 service prescribed in this section, or for service pursuant to
17 division (1) of subparagraph e of paragraph 1 of subsection C of
18 this section, those persons who were awarded service medals, as
19 authorized by the United States Department of Defense as reflected
20 in the veteran's Defense Department Form 214, related to the Vietnam
21 Conflict for service prior to August 5, 1964. The provisions of
22 subsection C of this section shall include military retirees, whose
23 retirement was based only on active service, that have been rated as

1 having twenty percent (20%) or greater service-connected disability
 2 by the Veterans Administration or the Armed Forces of the United
 3 States. The provisions of subsection C of this section shall not
 4 apply to any person who shall have served on active duty for
 5 training purposes only unless discharged from active duty for a
 6 service-connected disability.

7 E. Notwithstanding any provision herein to the contrary,
 8 ~~contributions~~

9 1. Contributions, benefits and service credit with respect to
 10 qualified military service shall be provided in accordance with
 11 Section 414(u) of the Internal Revenue Code of 1986, as amended,
 12 which is in accordance with the Uniformed Services Employment and
 13 Reemployment Rights Act of 1994, (USERRA) as amended.—The
 14 ~~municipality's contributions to the System for a member covered by~~
 15 ~~USERRA are due when such a member makes up his or her contributions~~
 16 ~~that were missed due to his or her qualified military service;~~

17 2. Effective January 1, 2007, if any member dies while
 18 performing qualified military service (as defined in Section 414(u)
 19 of the Internal Revenue Code of 1986, as amended), the survivors of
 20 the member are entitled to any additional benefits (other than
 21 benefits accruals relating to the period of qualified military
 22 service) provided under the System had the member resumed and then
 23 terminated employment on account of death.

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

9 SECTION 9. It being immediately necessary for the preservation
10 of the public peace, health and safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

13 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated
14 2-11-10 - DO PASS, As Amended and Coauthored.