

THE STATE SENATE
Monday, February 23, 2009

Committee Substitute for
Senate Bill No. 830

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 830 - By: Brown of the Senate and Kirby of the House.

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

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

1 SECTION 1. AMENDATORY 11 O.S. 2001, Section 50-101, as
2 last amended by Section 1, Chapter 137, O.S.L. 2003 (11 O.S. Supp.
3 2008, Section 50-101), is amended to read as follows:

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

5 1. "System" means the Oklahoma Police Pension and Retirement
6 System and all predecessor municipal Police Pension and Retirement
7 Systems;

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

9 3. "State Board" means the Oklahoma Police Pension and
10 Retirement Board;

11 4. "Fund" means the Oklahoma Police Pension and Retirement
12 Fund;

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

19 6. "Member" means all eligible officers of a participating
20 municipality and any person hired by a participating municipality
21 who is undergoing police training to become a permanent police
22 officer of the municipality. Effective July 1, 1987, a member does
23 not include a "leased employee" as defined under Section 414(n)(2)

1 of the Internal Revenue Code of 1986, as amended. Effective July 1,
2 1999, any individual who agrees with the participating municipality
3 that the individual's services are to be performed as a leased
4 employee or an independent contractor shall not be a member
5 regardless of any classification as a common law employee by the
6 Internal Revenue Service or any other governmental agency, or any
7 court of competent jurisdiction. A member shall include eligible
8 commissioned officers of the Oklahoma State Bureau of Narcotics and
9 Dangerous Drugs Control, the Oklahoma State Bureau of Investigation,
10 and the Alcoholic Beverage Laws Enforcement Commission who elect to
11 participate in the System pursuant to Section 50-111.5 of this
12 title;

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

22 8. "Credited service" means the period of service used to
23 determine the eligibility for and the amount of benefits payable to

1 a member. Credited service shall consist of the period during which
2 the member participated in the System or the predecessor municipal
3 systems as an active employee in an eligible membership
4 classification, plus any service prior to the establishment of the
5 predecessor municipal systems which was credited under the
6 predecessor municipal systems or credited service granted by the
7 State Board;

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

16 10. "Permanent total disability" means incapacity due to
17 accidental injury or occupational disease, to earn any wages in the
18 employment for which the member is physically suited and reasonably
19 fitted through education, training or experience. Further, the
20 member must be declared one hundred percent (100%) impaired as
21 defined by the "American Medical Association's Guides to the
22 Evaluation of Permanent Impairment" on the basis of a physical

1 medical examination by a physician licensed to practice medicine in
2 this state, as selected by the State Board;

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

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

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

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

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

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

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

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

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

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

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

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

15 e. Effective January 1, 2008, any payments not described
16 above shall not be considered gross salary if paid
17 after severance from employment, even if they are paid
18 by the later of two and one-half (2 1/2) months after
19 the date of severance from employment or the end of
20 the plan year that includes the date of severance from
21 employment, except, payments to an individual who does
22 not currently perform services for the participating
23 municipality by reason of qualified military service

1 within the meaning of Section 414(u)(5) of the
2 Internal Revenue Code of 1986, as amended, to the
3 extent these payments do not exceed the amounts the
4 individual would have received if the individual had
5 continued to perform services for the participating
6 municipality rather than entering qualified military
7 service.

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

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

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

21 19. "Normal disability benefit" means two and one-half percent
22 (2 1/2%) of the member's final average salary multiplied by twenty
23 (20) years;

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

4 21. "Paid base salary" means, effective May 1, 2002, all
5 compensation that shall include longevity, educational allowances,
6 and normal compensation paid on a regularly scheduled pay period of
7 which said pay period shall include holidays, annual leave and sick
8 leave. Paid base salary shall not include overtime, shall not
9 include payment for accumulated sick and annual leave upon
10 termination of employment, and shall not include any uniform
11 allowance or any other compensation for reimbursement of out-of-
12 pocket expenses; and

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

19 SECTION 2. AMENDATORY 11 O.S. 2001, Section 50-114, as
20 last amended by Section 2, Chapter 152, O.S.L. 2007 (11 O.S. Supp.
21 2008, Section 50-114), is amended to read as follows:

22 Section 50-114. A. The State Board is hereby authorized to pay
23 out of funds in the System a monthly service pension to any member

1 eligible as hereinafter provided, not exceeding in any event the
2 amount of money in such funds and not exceeding in any event the
3 accrued retirement benefit for such member, except as provided for
4 herein. In order for a member to be eligible for such service
5 pension the following requirements must be complied with:

- 6 1. The member's service with the police department for any
7 participating municipality must have ceased; however, a member may
8 be subsequently reemployed in the position of police chief pursuant
9 to subsection C of Section 50-112 of this title;
- 10 2. The member must have reached the member's normal retirement
11 date; and
- 12 3. The member must have complied with any agreement as to
13 contributions by the member and other members to any funds of the
14 System where said agreement has been made as provided by this
15 article; provided, that should a retired member receive disability
16 benefits as provided in this and other sections of this article, the
17 time the retired member is receiving said disability benefits shall
18 count as time on active service if the retired member should be
19 recalled by the Chief of Police from said disability retirement. It
20 shall be necessary before said time shall be counted toward
21 retirement that the retired member make the same contribution as the
22 member would have otherwise made if on active service for the time
23 the retired member was disabled.

1 B. Any member complying with all requirements of this article,
2 who reaches normal retirement date, upon application, shall be
3 retired at the accrued retirement benefit. When a member has served
4 for the necessary number of years and is otherwise eligible, as
5 provided in this article, if such member is discharged without cause
6 by the participating municipality, the member shall be eligible for
7 a pension.

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

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

13 2. The actual retirement date of the member.

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

1 benefit requirements, and minimum distribution requirements of
2 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
3 in accordance with the final regulations under Section 401(a)(9) of
4 the Internal Revenue Code of 1986, as amended, which were issued in
5 April 2002 and June 2004, notwithstanding any provision of the
6 System to the contrary.

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

21 E. The State Board may review and affirm a member's request for
22 retirement benefits prior to the member's normal retirement date

1 provided that no retirement benefits are paid prior to the normal
2 retirement date.

3 F. A member retired under the provisions of this article may
4 apply to the State Board to have the member's retirement benefits
5 set aside and may make application for disability benefits. Upon
6 approval of the disability benefits, the member would become subject
7 to all provisions of this article pertaining to disability
8 retirement.

9 G. Upon the death of a retired member or a beneficiary, the
10 benefit payment for the month in which the retired member or
11 beneficiary died, if not previously paid, shall be made to the
12 beneficiary of the member or to the member's or beneficiary's estate
13 if there is no beneficiary. Such benefit payment shall be made in
14 an amount equal to a full monthly benefit payment regardless of the
15 day of the month in which the retired member or beneficiary died.

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

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

4 Section 50-114.1 A. Notwithstanding any other provision
5 contained herein to the contrary, the benefits payable to a member
6 from the System provided by employer contributions (including
7 contributions picked up by the employer under Section 414(h) of the
8 Internal Revenue Code of 1986, as amended) shall be subject to the
9 limitations of Section 415 of the Internal Revenue Code of 1986, as
10 amended, in accordance with the provisions of this section. The
11 limitations of this section shall apply in limitation years
12 beginning on or after July 1, 2007, except as otherwise provided
13 below.

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

1 subsection under Section 415(d) of the Internal Revenue Code of
2 1986, as amended, shall apply to a member who has had a separation
3 from employment.

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

21 2. No actuarial adjustment to the benefit shall be made for:
22 a. survivor benefits payable to a surviving spouse under
23 a qualified joint and survivor annuity to the extent

- 1 such benefits would not be payable if the member's
2 benefit were paid in another form,
- 3 b. benefits that are not directly related to retirement
4 benefits (such as a qualified disability benefit,
5 preretirement incidental death benefits, and
6 postretirement medical benefits), or
- 7 c. the inclusion in the form of benefit of an automatic
8 benefit increase feature, provided the form of benefit
9 is not subject to Section 417(e)(3) of the Internal
10 Revenue Code of 1986, as amended, and would otherwise
11 satisfy the limitations of this section, and the
12 System provides that the amount payable under the form
13 of benefit in any limitation year shall not exceed the
14 limits of this section applicable at the annuity
15 starting date, as increased in subsequent years
16 pursuant to Section 415(d) of the Internal Revenue
17 Code of 1986, as amended. For this purpose, an
18 automatic benefit increase feature is included in a
19 form of benefit if the form of benefit provides for
20 automatic, periodic increases to the benefits paid in
21 that form.
- 22 3. The determination of the annual benefit shall take into
23 account Social Security supplements described in Section 411(a)(9)

1 of the Internal Revenue Code of 1986, as amended, and benefits
2 transferred from another defined benefit plan, other than transfers
3 of distributable benefits pursuant to Section 1.411(d)-4, Q&A-3(c),
4 of the Income Tax Regulations, but shall disregard benefits
5 attributable to employee contributions or rollover contributions.

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

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

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

20 b. an annuity that decreases during the life of the
21 member merely because of:

22 (1) the death of the survivor annuitant (but only if
23 the reduction is not below fifty percent (50%) of

1 the benefit payable before the death of the
2 survivor annuitant), or

3 (2) the cessation or reduction of Social Security
4 supplements or qualified disability payments (as
5 defined in Section 401(a)(11) of the Internal
6 Revenue Code of 1986, as amended).

7 c. Limitation Years Beginning Before July 1, 2007. For
8 limitation years beginning before July 1, 2007, the
9 actuarially equivalent straight life annuity is equal
10 to the annual amount of the straight life annuity
11 commencing at the same annuity starting date that has
12 the same actuarial present value as the member's form
13 of benefit computed using whichever of the following
14 produces the greater annual amount:

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

22 d. Limitation Years Beginning On Or After July 1, 2007.
23 For limitation years beginning on or after July 1,

1 2007, the actuarially equivalent straight life annuity
2 is equal to the greater of:

- 3 (1) the annual amount of the straight life annuity
4 (if any) payable to the member under the System
5 commencing at the same annuity starting date as
6 the member's form of benefit, and
7 (2) the annual amount of the straight life annuity
8 commencing at the same annuity starting date that
9 has the same actuarial present value as the
10 member's form of benefit, computed using a five
11 percent (5%) interest rate assumption and the
12 applicable mortality table described in Rev. Rul.
13 2001-62 for that annuity starting date.

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

- 21 a. Annuity Starting Date in Plan Years Beginning After
22 2005. If the annuity starting date of the member's
23 form of benefit is in a plan year beginning after

1 2005, the actuarially equivalent straight life annuity
2 is equal to the greatest of:

3 (1) the annual amount of the straight life annuity
4 commencing at the same annuity starting date that
5 has the same actuarial present value as the
6 member's form of benefit, computed using the
7 interest rate and the mortality table (or other
8 tabular factor) each as set forth in subsection G
9 of Section 50-105.4 of this title for adjusting
10 benefits in the same form,

11 (2) the annual amount of the straight life annuity
12 commencing at the same annuity starting date that
13 has the same actuarial present value as the
14 member's form of benefit, computed using a five
15 and one-half percent (5.5%) interest rate
16 assumption and the applicable mortality table
17 described in Rev. Rul. 2001-62, and

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

22 (a) the rate of interest on thirty-year Treasury
23 securities as specified by the Commissioner

1 for the lookback month for the stability
2 period specified below. The lookback month
3 applicable to the stability period is the
4 fourth calendar month preceding the first
5 day of the stability period, as specified
6 below. The stability period is the
7 successive period of one (1) plan year which
8 contains the annuity starting date for the
9 distribution and for which the applicable
10 interest rate remains constant, and

11 (b) the applicable mortality table described in
12 Rev. Rul. 2001-62,

13 divided by one and five one-hundredths (1.05).

14 b. Annuity Starting Date in Plan Years Beginning in 2004
15 or 2005:

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

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

- 3 (a) the interest rate and the mortality table
4 (or other tabular factor) each as set forth
5 in subsection G of Section 50-105.4 of this
6 title for adjusting benefits in the same
7 form, and
8 (b) a five and one-half percent (5.5%) interest
9 rate assumption and the applicable mortality
10 table described in Rev. Rul. 2001-62.

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

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

3 (a) the interest rate and mortality table (or
4 other tabular factor) each as set forth in
5 subsection G of Section 50-105.4 of this
6 title for adjusting benefits in the same
7 form,

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

22 (ii) the applicable mortality table
23 described in Rev. Rul. 2001-62, 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 (1) plan year which
11 contains the annuity starting date for
12 the 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 Rev. Rul. 2001-62.

21 7. The foregoing limitation shall not be applicable with
22 respect to any member whose annual benefits from the System and
23 under all other defined benefit plans of the participating

1 municipality are less than Ten Thousand Dollars (\$10,000.00) for the
2 year or from any prior year, if such member has not at any time
3 participated in any defined contribution plan maintained by the
4 participating municipality.

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

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

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

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

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

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

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

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

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

1 percent interest rate assumption and the
2 applicable mortality table for the annuity
3 starting date as described in Rev. Rul. 2001-62
4 (and expressing the member's age based on
5 completed calendar months as of the annuity
6 starting date).

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

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

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

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

- 1 (1) the interest rate and the mortality table (or
2 other tabular factor) each as set forth in
3 subsection G of Section 50-105.4 of this title,
4 or
5 (2) a five-percent interest rate assumption and the
6 applicable mortality table as described in Rev.
7 Rul. 2001-62.
- 8 b. Limitation Years Beginning On Or After July 1, 2007.
- 9 (1) System Does Not Have Immediately Commencing
10 Straight Life Annuity Payable at Both Age Sixty-
11 five (65) and the Age of Benefit Commencement.
12 If the annuity starting date for the member's
13 benefit is after age sixty-five (65) and occurs
14 in a limitation year beginning on or after July
15 1, 2007, and the System does not have an
16 immediately commencing straight life annuity
17 payable at both age sixty-five (65) and the age
18 of benefit commencement, the dollar limitation at
19 the member's annuity starting date is the annual
20 amount of a benefit payable in the form of a
21 straight life annuity commencing at the member's
22 annuity starting date that is the actuarial
23 equivalent of the dollar limitation under

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 interest rate assumption and the
6 applicable mortality table for the annuity
7 starting date as described in Rev. Rul. 2001-62
8 (and expressing the member's age based on
9 completed calendar months as of the annuity
10 starting date).

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

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

1 who is age sixty-five (65) and has the same
2 accrued benefit as the member.

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

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

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

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

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

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

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

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

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

11 G. Effective for years beginning after December 31, 1997, if a
12 member purchases service pursuant to Section 50-111.2 and Section
13 50-111.4 of this title, which qualifies as "permissive service
14 credit" pursuant to Section 415(n) of the Internal Revenue Code of
15 1986, as amended, the limitations of Section 415 of the Internal
16 Revenue Code of 1986, as amended, may be met by either:

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

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

22 H. Effective for years beginning after December 31, 1997, if a
23 member repays to the System any amounts received because of such

1 member's prior termination pursuant to subsection C of Section 50-
2 111.1 of this title, such repayment shall not be taken into account
3 for purposes of Section 415 of the Internal Revenue Code of 1986, as
4 amended, pursuant to Section 415(k)(3) of the Internal Revenue Code
5 of 1986, as amended.

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

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

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

20 SECTION 4. AMENDATORY Section 4, Chapter 152, O.S.L.
21 2007 (11 O.S. Supp. 2008, Section 50-114.3), is amended to read as
22 follows:

1 Section 50-114.3 A. An individual who has been designated,
2 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of
3 1986, as amended, as the beneficiary of a deceased member and who is
4 not the surviving spouse of the member, may elect, in accordance
5 with Section 402(c)(11) of the Internal Revenue Code of 1986, as
6 amended, and at the time and in the manner prescribed by the State
7 Board, to have a direct trustee-to-trustee transfer of any portion
8 of such beneficiary's lump-sum distribution from the System after
9 December 31, 2006, made to an individual retirement account or
10 individual retirement annuity (other than an endowment contract)
11 described in Section 408(a) or (b) of the Internal Revenue Code of
12 1986, as amended (IRA), that is established on behalf of such
13 designated individual. If such transfer is made, then:

14 1. The transfer is treated as an eligible rollover distribution
15 for purposes of Section 402(c)(11) of the Internal Revenue Code of
16 1986, as amended;

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

1 3. The required minimum distribution rules of Section
2 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue
3 Code of 1986, as amended, apply to the transferee IRA.

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

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

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

12 Section 50-115. A. The State Board is authorized to pay a
13 disability benefit to a member of the System or a pension to the
14 beneficiaries of such member eligible as hereinafter provided, not
15 exceeding the accrued retirement benefit of the member, except as
16 otherwise provided in this article. Such disability benefit shall
17 be payable immediately upon determination of eligibility. Any
18 preexisting condition identified at the time of any initial or
19 subsequent membership shall be used to offset the percentage of
20 impairment to the whole person in determining any disability
21 benefit. Once the initial disability benefit has been awarded by
22 the Board on the basis of the percentage of impairment to the whole

1 person, the member shall have no further recourse to increase the
2 awarded percentage of impairment.

3 B. In order for any member to be eligible for any disability
4 benefit, or the member's beneficiaries to be eligible for a pension,
5 the member must have complied with any agreement as to contributions
6 by the member and other members to any funds of the System where
7 said agreement has been made as provided by this article; and the
8 State Board must find:

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

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

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

18 D. As of the date of determination by the State Board that a
19 member is physically or mentally disabled and that the disability is
20 permanent and partial or permanent and total as was incurred while
21 in, and in consequence of, the performance or duty as an officer,
22 the member shall be awarded a disability benefit on the basis of the
23 percentage of impairment to the whole person, as defined by the most

1 current standards of the impairment as outlined in the "American
 2 Medical Association's Guides to the Evaluation of Permanent
 3 Impairment," as provided in the following table:

4	1% to 49% impairment to whole person =	50% of the normal
5		disability benefit
6	50% to 74% impairment to whole person =	75% of the normal
7		disability benefit
8	75% to 100% impairment to whole person =	100% of the normal
9		disability benefit.

10 E. If the participating municipality denies a disabled member
 11 the option of continuing employment instead of retiring on a
 12 disability pension, then the burden of proof rests with the
 13 participating municipality to show cause to the State Board that
 14 there is no position as a sworn officer within the police department
 15 of that municipality which the member can fill.

16 F. Upon determination by the State Board that a member is
 17 physically or mentally disabled and that the disability is permanent
 18 and total and that the member has completed ten (10) years of
 19 credited service and is disabled by any cause, the member shall
 20 receive a disability benefit on the basis of the member's accrued
 21 retirement benefit.

22 G. Upon determination by the State Board that a member is
 23 physically or mentally disabled and that the disability is permanent

1 and partial and that the member has completed ten (10) years of
2 credited service as a member and is disabled from any cause, the
3 member shall be awarded a disability benefit on the basis of the
4 member's years of credited service as a member and the percentage of
5 impairment to the whole person, as defined by the most current
6 standards of the impairment as outlined in the "American Medical
7 Association's Guides to the Evaluation of Permanent Impairment", on
8 the basis of the following table:

9 1% to 24% impaired = 25% of accrued retirement benefit
10 25% to 49% impaired = 50% of accrued retirement benefit
11 50% to 74% impaired = 75% of accrued retirement benefit
12 75% to 99% impaired = 90% of accrued retirement benefit.

13 H. Before making a finding as to the disability of a member,
14 the State Board shall require that, if the member is able, the
15 member shall make a certificate as to the disability which shall be
16 subscribed and sworn to by the member. It shall also require a
17 certificate as to such disability to be made by some physician
18 licensed to practice in this state as selected by the State Board.
19 The State Board may require other evidence of disability before
20 making the disability benefit. The salary of any such member shall
21 continue while the member is so necessarily confined to such
22 hospital bed or home and necessarily requires medical care or
23 professional nursing on account of such sickness or disability for a

1 period of not more than six (6) months, after which said period the
2 other provisions of this article may apply. The State Board, in
3 making disability benefits, shall act upon the written request of
4 the member or without such request, if it deem it for the good of
5 the police department. Any disability benefits shall cease when the
6 member receiving same shall be restored to active service at a
7 salary not less than three-fourths (3/4) of the member's average
8 monthly salary.

9 I. Any member of a police department of any municipality who,
10 in the line of duty, has been exposed to hazardous substances,
11 including but not limited to chemicals used in the manufacture of a
12 controlled dangerous substance or chemicals resulting from the
13 manufacture of a controlled dangerous substance, or to blood-borne
14 pathogens and who is later disabled from a condition that was the
15 result of such exposure and that was not revealed by the physical
16 examination passed by the member upon entry into the System shall be
17 presumed to have incurred such disability while performing the
18 officer's duties unless the contrary is shown by competent evidence.
19 The presumption created by this subsection shall have no application
20 whatever to any workers' compensation claim or claims, and it shall
21 not be applied or be relied upon in any way in workers' compensation
22 proceedings. All compensation or benefits due to any member

1 pursuant to the presumption created by this subsection shall be paid
2 solely by the system.

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

11 SECTION 6. AMENDATORY 11 O.S. 2001, Section 50-128, as
12 last amended by Section 4, Chapter 137, O.S.L. 2005 (11 O.S. Supp.
13 2008, Section 50-128), is amended to read as follows:

14 Section 50-128. A. Any member who has heretofore left the
15 Police Department qualifying under this article to enter the
16 military service of the United States during World War II and who
17 returned to said department on or before July 1, 1947, or the Korean
18 conflict and who returned to said department on or before January 1,
19 1956, shall receive credit for such time in military service without
20 having made contribution to the System; and any member who has
21 heretofore left, or hereafter may leave said department because of
22 involuntary conscription into the military services of the United
23 States at any time and who returns to said department within ninety

1 (90) days after the member's release from such involuntary service
2 shall receive credit for such time in said military service on the
3 Police Department without having made contribution to the System
4 only for that period that is involuntary; voluntary enlistments and
5 voluntary extensions of military service being herewith specifically
6 excluded for retirement credit.

7 B. A member who began participation in the System prior to July
8 1, 2003, and who retires on or after July 1, 1998, shall be entitled
9 to prior service credit, not to exceed five (5) years, for those
10 periods of military service on active duty prior to membership in
11 the Oklahoma Police Pension and Retirement System. All members who
12 initially begin participation with the System after June 30, 2003,
13 may acquire prior military service credit for a maximum of five (5)
14 years of such service credit upon payment of the actuarial cost of
15 such service in the manner prescribed by and subject to all of the
16 requirements of Section 50-111.4 of this title. For members of the
17 System hired or rehired on or after July 1, 2003, if the military
18 service credit authorized by this subsection is used to compute the
19 retirement benefit of the member and the member retires from the
20 System, such military service credit shall not be used to compute
21 the retirement benefit in any other retirement system created
22 pursuant to the Oklahoma Statutes and the member may receive credit

1 for such service only in the retirement system from which the member
2 first retires.

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

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

- 9 a. April 6, 1917, to November 11, 1918, commonly referred
10 to as World War I,
- 11 b. September 16, 1940, to December 7, 1941, as a member
12 of the 45th Division,
- 13 c. December 7, 1941, to December 31, 1946, commonly
14 referred to as World War II,
- 15 d. June 27, 1950, to January 31, 1955, commonly referred
16 to as the Korean Conflict or the Korean War,
- 17 e. February 28, 1961, to May 7, 1975, commonly referred
18 to as the Vietnam era, except that:
- 19 (1) for the period from February 28, 1961, to August
20 4, 1964, military service shall only include
21 service in the Republic of Vietnam during that
22 period, and

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

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

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

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

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

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

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

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

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

19 1. "System" means the Oklahoma Law Enforcement Retirement
 20 System;

21 2. "Act" means Section 2-300 et seq. of this title;

22 3. "Board" means the Oklahoma Law Enforcement Retirement Board
 23 of the System;

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

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

4 6. a. "Member" means:

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

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

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

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

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

- 1 b. Effective July 1, 1987, a member does not include a
2 "leased employee" as defined under Section 414(n)(2) of
3 the Internal Revenue Code of 1986, as amended.
4 Effective July 1, 1999, any individual who agrees with
5 the participating employer that the individual's
6 services are to be performed as a leased employee or
7 an independent contractor shall not be a member
8 regardless of any classification as a common-law
9 employee by the Internal Revenue Service or any other
10 governmental agency, or any court of competent
11 jurisdiction.
- 12 c. All persons who shall be offered a position of a
13 commissioned law enforcement officer as an employee of
14 one of the agencies described in subparagraph a of
15 this paragraph shall participate in the System upon
16 the person meeting the requisite post-offer-pre-
17 employment physical examination standards which shall
18 be subject to the following requirements:
- 19 (1) all such persons shall be of good moral
20 character, free from deformities, mental or
21 physical conditions, or disease and alcohol or
22 drug addiction which would prohibit the person

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

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

- 1 a. completes twenty (20) years of vesting service, or
2 b. attains sixty-two (62) years of age with ten (10)
3 years of vesting service, or
4 c. attains sixty-two (62) years of age, if:
5 (1) the member has been transferred to this System
6 from the Oklahoma Public Employees Retirement
7 System on or after July 1, 1981, and
8 (2) the member would have been vested had the member
9 continued to be a member of the Oklahoma Public
10 Employees Retirement System.

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

1 in accordance with the regulations under Section 401(a)(9) of the
2 Internal Revenue Code of 1986, as amended, which were proposed in
3 January 2001, notwithstanding any provision of the System to the
4 contrary.

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

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

1 received pursuant to this paragraph shall be used in determining the
2 member's retirement benefit, and shall be used in determining years
3 of service for retirement or vesting purposes;

4 8. "Actual paid base salary" means the salary received by a
5 member, excluding payment for any accumulated leave or uniform
6 allowance. Salary shall include any amount of nonelective salary
7 reduction under Section 414(h) of the Internal Revenue Code of 1986;

8 9. "Final average salary" means the average of the highest
9 thirty (30) consecutive complete months of actual paid gross salary.
10 Gross salary shall include any amount of elective salary reduction
11 under Section 457 of the Internal Revenue Code of 1986, as amended,
12 and any amount of nonelective salary reduction under Section 414(h)
13 of the Internal Revenue Code of 1986, as amended. Effective July 1,
14 1992, gross salary shall include any amount of elective salary
15 reduction under Section 125 of the Internal Revenue Code of 1986, as
16 amended. Effective July 1, 1998, gross salary shall include any
17 amount of elective salary reduction not includable in the gross
18 income of the member under Section 132(f)(4) of the Internal Revenue
19 Code of 1986, as amended. Effective July 1, 1998, for purposes of
20 determining a member's compensation, any contribution by the member
21 to reduce his or her regular cash remuneration under Section
22 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be
23 treated as if the member did not make such an election. Only salary

1 on which required contributions have been made may be used in
2 computing the final average salary. Gross salary shall not include
3 severance pay.

4 In addition to other applicable limitations, and notwithstanding
5 any other provision to the contrary, for plan years beginning on or
6 after July 1, 2002, the annual gross salary of each "Noneligible
7 Member" taken into account under the System shall not exceed the
8 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")
9 annual salary limit. The EGTRRA annual salary limit is Two Hundred
10 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for
11 increases in the cost of living in accordance with Section
12 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The
13 annual salary limit in effect for a calendar year applies to any
14 period, not exceeding twelve (12) months, over which salary is
15 determined ("determination period") beginning in such calendar year.
16 If a determination period consists of fewer than twelve (12) months,
17 the EGTRRA salary limit will be multiplied by a fraction, the
18 numerator of which is the number of months in the determination
19 period, and the denominator of which is twelve (12). For purposes
20 of this section, a "Noneligible Member" is any member who first
21 became a member during a plan year commencing on or after July 1,
22 1996.

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

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

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

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

6 Effective for years beginning after December 31, 2008, gross
7 salary shall also include differential wage payments under Section
8 414(u)(12) of the Internal Revenue Code of 1986, as amended;

9 10. "Credited service" means the period of service used to
10 determine the amount of benefits payable to a member. Credited
11 service shall consist of the period during which the member
12 participated in the System or the predecessor Plan as an active
13 employee in an eligible membership classification, plus any service
14 prior to the establishment of the predecessor Plan which was
15 credited under the predecessor Plan and for law enforcement officers
16 and criminalists of the Oklahoma State Bureau of Investigation and
17 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
18 who became members of the System on July 1, 1980, any service
19 credited under the Oklahoma Public Employees Retirement System as of
20 June 30, 1980, and for members of the Communications and Lake Patrol
21 Divisions of the Oklahoma Department of Public Safety, who became
22 members of the System on July 1, 1981, any service credited under
23 the predecessor Plan or the Oklahoma Public Employees Retirement

1 System as of June 30, 1981, and for law enforcement officers of the
2 Alcoholic Beverage Laws Enforcement Commission who became members of
3 the System on July 1, 1982, any service credited under the Oklahoma
4 Public Employees Retirement System as of June 30, 1982, and for park
5 rangers of the Oklahoma Tourism and Recreation Department who became
6 members of the System on July 1, 1985, any service credited under
7 the Oklahoma Public Employees Retirement System as of June 30, 1985,
8 and for inspectors of the Oklahoma State Board of Pharmacy who
9 became members of the System on July 1, 1986, any service credited
10 under the Oklahoma Public Employees Retirement System as of June 30,
11 1986, for law enforcement officers of the Oklahoma Capitol Patrol
12 Division of the Department of Public Safety who became members of
13 the System effective July 1, 1993, any service credited under the
14 Oklahoma Public Employees Retirement System as of June 30, 1993, and
15 for all commissioned officers in the Gunsmith/Ammunition Reloader
16 Division of the Department of Public Safety who became members of
17 the System effective July 1, 1994, any service credited under the
18 Oklahoma Public Employees Retirement System as of June 30, 1994, and
19 for the park managers or park supervisors of the Oklahoma Tourism
20 and Recreation Department who were employed in such a position prior
21 to July 1, 1985, and who elect to become members of the System
22 effective September 1, 1996, any service transferred pursuant to
23 subsection C of Section 2-309.6 of this title and any service

1 purchased pursuant to subsection B of Section 2-307.2 of this title.
2 Effective August 5, 1993, an authorized leave of absence shall
3 include a period of absence pursuant to the Family and Medical Leave
4 Act of 1993;

5 11. "Disability" means a physical or mental condition which, in
6 the judgment of the Board, totally and presumably permanently
7 prevents the member from engaging in the usual and customary duties
8 of the occupation of the member and thereafter prevents the member
9 from performing the duties of any occupation or service for which
10 the member is qualified by reason of training, education or
11 experience. A person is not under a disability when capable of
12 performing a service to the employer, regardless of occupation,
13 providing the salary of the employee is not diminished thereby;

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

17 13. "Line of duty" means any action which a member whose
18 primary function is crime control or reduction or enforcement of the
19 criminal law is obligated or authorized by rule, regulations,
20 condition of employment or service, or law to perform, including
21 those social, ceremonial, or athletic functions to which the member
22 is assigned, or for which the member is compensated, by the agency
23 the member serves;

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

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

6 16. "Traumatic injury" means a wound or a condition of the body
7 caused by external force, including injuries inflicted by bullets,
8 explosives, sharp instruments, blunt objects or other physical
9 blows, chemicals, electricity, climatic conditions, infectious
10 diseases, radiation, and bacteria, but excluding stress and strain;
11 and

12 17. "Beneficiary" means the individual designated by the member
13 on a beneficiary designation form supplied by the Oklahoma Law
14 Enforcement Retirement System, or if there is no designated
15 beneficiary or if the designated beneficiary predeceases the member,
16 the estate of the member. If the member's spouse is not designated
17 as the sole primary beneficiary, the member's spouse must sign a
18 consent.

19 SECTION 8. AMENDATORY 47 O.S. 2001, Section 2-305, as
20 last amended by Section 7, Chapter 152, O.S.L. 2007 (47 O.S. Supp.
21 2008, Section 2-305), is amended to read as follows:

22 Section 2-305. A. Except as otherwise provided in this title,
23 at any time after attaining normal retirement date, any member of

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

1 Board may deem proper, the Board shall determine that such member of
2 the System is physically and mentally able to continue to perform
3 duties or service as required of a member. Unless such application
4 be made by a member of the System within thirty (30) days after
5 reaching the age of sixty (60) years and completing twenty (20)
6 years or more of credited service or if, after such application and
7 examination, the Board shall determine that such member of the
8 System is not physically or mentally able to continue to perform
9 services as required of the employer, the Board shall by resolution
10 order his or her retirement with retirement pay for length of
11 service as provided herein.

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

20 C. Members of the System whose salary is set by statute who
21 have retired after completion of the mandatory twenty (20) years of
22 service, and those members with statutory salaries who retire after
23 reaching the mandatory twenty-year retirement, shall receive an

1 annual retirement pay, payable in equal monthly installments, based
2 upon the greater of either:

- 3 1. The top base pay currently paid to an active member, at the
4 time each such monthly retirement payment is made, multiplied by two
5 and one-half percent (2 1/2%) multiplied by the number of years of
6 credited service and fraction thereof for the following positions:
- 7 a. Oklahoma Highway Patrolman,
 - 8 b. Communications Dispatcher,
 - 9 c. Capitol Patrolman,
 - 10 d. Lake Patrolman,
 - 11 e. Oklahoma State Bureau of Investigation-Special Agent;
 - 12 or

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

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

20 D. Other members of the System whose retirement benefit is not
21 otherwise prescribed by this section who have retired after
22 completion of the mandatory twenty (20) years of service, and those
23 members who retire after reaching the mandatory twenty-year

1 retirement, shall receive an annual retirement pay, payable in equal
2 monthly payments, based upon the greater of either:

3 1. The actual average salary currently paid to the highest
4 nonsupervisory position in the participating agency, at the time
5 each such monthly payment is made, multiplied by two and one-half
6 percent (2 1/2%), multiplied by the number of years of credited
7 service and fraction thereof for the following positions:

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

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

21 No member of the System retired prior to July 1, 2002, shall
22 receive a benefit less than the amount the member is receiving as of
23 June 30, 2002. The participating employer must certify to the

1 System in writing the actual average gross salary currently paid to
2 the highest nonsupervisory position. The Board of Trustees shall
3 promulgate such rules as are necessary to implement the provisions
4 of this section.

5 E. A member who meets the definition of disability as defined
6 in paragraph 11 of Section 2-300 of this title by direct reason of
7 the performance of the member's duties as an officer shall receive a
8 monthly benefit equal to the greater of fifty percent (50%) of final
9 average salary or two and one-half percent (2 1/2%) of final average
10 salary multiplied by the number of years of the member's credited
11 service. If such member participates in the Oklahoma Law
12 Enforcement Deferred Option Plan pursuant to Section 2-305.2 of this
13 title, then such member's disability pension provided pursuant to
14 this subsection shall be reduced to account for such member's
15 participation in the Oklahoma Law Enforcement Deferred Option Plan.

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

- 21 1. Two and one-half percent (2 1/2%);
- 22 2. Multiplied by:

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

1 average salary for the member shall be computed by the
2 member's actual final average salary or the highest
3 median salary amount for a member whose salary was
4 prescribed by a specific salary schedule upon the date
5 of the member's disability, whichever final average
6 salary amount would be greater, or

7 b. the actual final average salary of the member if the
8 member had performed twenty (20) or more years of
9 service prior to disability.

10 If such member participates in the Oklahoma Law Enforcement
11 Deferred Option Plan pursuant to Section 2-305.2 of this title, such
12 member's disability pension provided pursuant to this subsection
13 shall be adjusted as provided in Section 2-305.2 of this title to
14 account for such member's participation in the Oklahoma Law
15 Enforcement Deferred Option Plan.

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

1 H. Payment of a disability pension shall commence as of the
2 first day of the month coinciding or next following the date of
3 retirement and shall continue as long as the member meets the
4 definition of total and permanent disability provided in this
5 section.

6 I. For the purpose of determining the member's disability under
7 subsection E, F or G of this section, the member shall be required
8 by the Board to be examined by a minimum of two recognized
9 physicians selected by the Board to determine the extent of the
10 member's injury or illness. The examining physicians shall furnish
11 the Board a detailed written report of the injury or illness of the
12 examined member establishing the extent of disability and the
13 possibilities of the disabled member being returned to his or her
14 regular duties or an alternate occupation or service covered by the
15 System after a normal recuperation period. The Board shall require
16 all retired disabled members who have not attained their normal
17 retirement date to submit to a physical examination once each year
18 for a minimum of three (3) years following retirement. The Board
19 shall select a minimum of two physicians to examine the retired
20 members and pay for their services from the fund. Any retired
21 disabled member found no longer disabled by the examining physicians
22 to perform the occupation of the member or an alternate occupation
23 or service covered by the System shall be required to return to duty

1 and complete twenty (20) years of service as provided in subsection
2 A of this section, or forfeit all his or her rights and claims under
3 this act.

4 J. The disability benefit under this section shall be for the
5 lifetime of the member unless such member is found no longer
6 disabled pursuant to subsection I of this section. Such member
7 shall not be entitled to the retirement benefit pursuant to
8 subsection A of this section unless such member returns to active
9 duty and is eligible for a retirement benefit as provided in
10 subsection A of this section.

11 K. At the postoffer, preemployment physical examination
12 required under paragraph 6 of Section 2-300 of this title, the
13 physician selected by the Board shall determine the extent to which
14 a new member is disabled. If a member is determined to be partially
15 disabled, the physician shall assign a percentage of disability to
16 such partial disability. If such member then becomes entitled to a
17 disability benefit under either subsection E or subsection G of this
18 section, the benefit payable shall be reduced by the percentage
19 which such member was determined to be disabled at the postoffer,
20 preemployment physical unless the Board makes a determination that
21 the initially determined percentage of disability at the
22 preemployment physical examination is unrelated to the reason for
23 the disability currently sought pursuant to subsection E or

1 subsection G of this section. Upon employment, the member shall
2 disclose to the Board any disability payments received from any
3 source. The amount of disability to be paid to any member cannot
4 exceed one hundred percent (100%) disability from all sources. The
5 provisions of this subsection shall apply only to members whose
6 effective date of membership is on or after July 1, 2000.

7 L. In addition to the pension provided for under subsection F
8 of this section, if said member has one or more children under the
9 age of eighteen (18) years or under the age of twenty-two (22) years
10 if the child is enrolled full time in and is regularly attending a
11 public or private school or any institution of higher education,
12 Four Hundred Dollars (\$400.00) a month shall be paid from said Fund
13 for the support of each surviving child to the member or person
14 having the care and custody of such children until each child
15 reaches the age of eighteen (18) years or reaches the age of twenty-
16 two (22) years if the child is enrolled full time in and is
17 regularly attending a public or private school or any institution of
18 higher education.

19 M. Notwithstanding any other provisions in Section 2-300
20 through 2-315 of this title, in order to be eligible to receive
21 disability benefits, a member who meets the definition of disability
22 as defined in paragraph 11 of Section 2-300 of this title shall file
23 the member's completed application for disability benefits with the

1 System before such member's date of termination from service and
 2 provide such additional information that the System's rules require
 3 within six (6) months of the System's receipt of such application.
 4 If the member's completed application for disability benefits is not
 5 filed with the System before the member's date of termination from
 6 service or such additional information as is required under the
 7 System's rules is not provided within six (6) months of the System's
 8 receipt of such application, such member shall be eligible only for
 9 such other benefits as are available to members of the System and
 10 shall not be eligible to receive any disability benefits.

11 N. If the requirements of Section ~~40~~ 2-305.1C of this ~~act~~ title
 12 are satisfied, a member who, by reason of disability or attainment
 13 of normal retirement date or age, is separated from service as a
 14 public safety officer with the member's participating employer may
 15 elect to have payment made directly to the provider for qualified
 16 health insurance premiums by deduction from his or her monthly
 17 disability benefit or monthly retirement payment, after December 31,
 18 2006, in accordance with Section 402(1) of the Internal Revenue Code
 19 of 1986, as amended.

20 SECTION 9. AMENDATORY Section 9, Chapter 152, O.S.L.
 21 2007 (47 O.S. Supp. 2008, Section 2-305.1B), is amended to read as
 22 follows:

1 Section 2-305.1B A. An individual who has been designated,
2 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of
3 1986, as amended, as the beneficiary of a deceased member and who is
4 not the surviving spouse of the member, may elect, in accordance
5 with Section 402(c)(11) of the Internal Revenue Code of 1986, as
6 amended, and at the time and in the manner prescribed by the Board,
7 to have a direct trustee-to-trustee transfer of any portion of such
8 beneficiary's lump-sum distribution from the Oklahoma Law
9 Enforcement Retirement System after December 31, 2006, made to an
10 individual retirement account or individual retirement annuity
11 (other than an endowment contract) described in Section 408(a) or
12 (b) of the Internal Revenue Code of 1986, as amended (IRA), that is
13 established on behalf of such designated individual. If such
14 transfer is made, then:

15 1. The transfer is treated as an eligible rollover distribution
16 for purposes of Section 402(c)(11) of the Internal Revenue Code of
17 1986, as amended;

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

1 3. The required minimum distribution rules of Section
2 401(a)(9)(B), other than clause iv thereof, of the Internal Revenue
3 Code of 1986, as amended, apply to the transferee IRA.

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

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

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

12 Section 305.4 A. Notwithstanding any other provision contained
13 herein to the contrary, the benefits payable to a member from the
14 Oklahoma Law Enforcement Retirement System provided by employer
15 contributions (including contributions picked up by the employer
16 under Section 414(h) of the Internal Revenue Code of 1986, as
17 amended), shall be subject to the limitations of Section 415 of the
18 Internal Revenue Code of 1986, as amended, in accordance with the
19 provisions of this section. The limitations of this section shall
20 apply in limitation years beginning on or after July 1, 2007, except
21 as otherwise provided below.

22 B. Except as provided below, effective for limitation years
23 ending after December 31, 2001, any accrued retirement benefit

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

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

1 at the other annuity starting dates. For this purpose, the
2 determination of whether a new starting date has occurred shall be
3 made without regard to Section 1.401(a)-20, Q&A 10(d), and with
4 regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax
5 Regulations.

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

1 years pursuant to Section 415(d) of the Internal
2 Revenue Code of 1986, as amended. For this purpose,
3 an automatic benefit increase feature is included in a
4 form of benefit if the form of benefit provides for
5 automatic, periodic increases to the benefits paid in
6 that form.

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

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

18 5. Benefit Forms Not Subject to Section 417(e)(3) of the
19 Internal Revenue code of 1986, as amended: The straight life
20 annuity that is actuarially equivalent to the member's form of
21 benefit shall be determined under this paragraph 5 if the form of
22 the member's benefit is either:

- 1 a. a nondecreasing annuity (other than a straight life
2 annuity) payable for a period of not less than the
3 life of the member (or, in the case of a qualified
4 preretirement survivor annuity, the life of the
5 surviving spouse), or
- 6 b. an annuity that decreases during the life of the
7 member merely because of:
- 8 (1) the death of the survivor annuitant (but only if
9 the reduction is not below fifty percent (50%) of
10 the benefit payable before the death of the
11 survivor annuitant), or
- 12 (2) the cessation or reduction of Social Security
13 supplements or qualified disability payments (as
14 defined in Section 401(a)(11) of the Internal
15 Revenue Code of 1986, as amended).
- 16 c. Limitation Years Beginning Before July 1, 2007. For
17 limitation years beginning before July 1, 2007, the
18 actuarially equivalent straight life annuity is equal
19 to the annual amount of the straight life annuity
20 commencing at the same annuity starting date that has
21 the same actuarial present value as the member's form
22 of benefit computed using whichever of the following
23 produces the greater annual amount:

- 1 (1) the interest rate and the mortality table or
2 other tabular factor, each as set forth in
3 subsection H of Section 2-303.1 of this title for
4 adjusting benefits in the same form, and
- 5 (2) a five percent (5%) interest rate assumption and
6 the applicable mortality table described in
7 Revenue Ruling 2001-62 for that annuity starting
8 date.
- 9 d. Limitation Years Beginning On Or After July 1, 2007.
10 For limitation years beginning on or after July 1,
11 2007, the actuarially equivalent straight life annuity
12 is equal to the greater of:
- 13 (1) the annual amount of the straight life annuity,
14 if any, payable to the member under the System
15 commencing at the same annuity starting date as
16 the member's form of benefit, and
- 17 (2) the annual amount of the straight life annuity
18 commencing at the same annuity starting date that
19 has the same actuarial present value as the
20 member's form of benefit, computed using a five
21 percent (5%) interest rate assumption and the
22 applicable mortality table described in Revenue
23 Ruling 2001-62 for that annuity starting date.

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

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

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

21 (2) the annual amount of the straight life annuity
22 commencing at the same annuity starting date that
23 has the same actuarial present value as the

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

5 (3) 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:

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

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

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

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

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

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

20 (2) If the annuity starting date of the member's
21 benefit is on or after the first day of the first
22 plan year beginning in 2004 and before December
23 31, 2004, the application of this subparagraph

1 shall not cause the amount payable under the
2 member's form of benefit to be less than the
3 benefit calculated under the System, taking into
4 account the limitations of this section, except
5 that the actuarially equivalent straight life
6 annuity is equal to the annual amount of the
7 straight life annuity commencing at the same
8 annuity starting date that has the same actuarial
9 present value as the member's form of benefit,
10 computed using whichever of the following
11 produces the greatest annual amount:

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

1 stability period, as specified below.

2 The stability period is the successive

3 period of one (1) plan year which

4 contains the annuity starting date for

5 the distribution and for which the

6 applicable interest rate remains

7 constant, and

8 ii. the applicable mortality table

9 described in Revenue Ruling 2001-62,

10 and

11 (c) i. the rate of interest on thirty-year

12 Treasury securities as specified by the

13 Commissioner for the lookback month for

14 the stability period specified below.

15 The lookback month applicable to the

16 stability period is the fourth calendar

17 month preceding the first day of the

18 stability period, as specified below.

19 The stability period is the successive

20 period of one (1) plan year which

21 contains the annuity starting date for

22 the distribution and for which the

23 applicable interest rate remains

1 constant (as in effect on the last day
 2 of the last plan year beginning before
 3 January 1, 2004, under provisions of
 4 the System then adopted and in effect),
 5 and

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

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

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

21 D. Adjustment of Dollar Limitation for Benefit Commencement
 22 Before Sixty-two (62) Years of Age or After Sixty-five (65) Years of
 23 Age: Effective for benefits commencing in limitation years ending

1 after December 31, 2001, the dollar limitation under subsection B of
2 this section shall be adjusted if the annuity starting date of the
3 member's benefit is before sixty-two (62) years of age or after
4 sixty-five (65) years of age. If the annuity starting date is
5 before sixty-two (62) years of age, the dollar limitation under
6 subsection B of this section shall be adjusted under paragraph 1 of
7 this subsection, as modified by paragraph 3 of this subsection, but
8 subject to paragraph 4 of this subsection. If the annuity starting
9 date is after sixty-five (65) years of age, the dollar limitation
10 under subsection B of this section shall be adjusted under paragraph
11 2 of this subsection, as modified by paragraph 3 of this subsection.

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

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

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

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

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

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

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

15 (2) System Has Immediately Commencing Straight Life
16 Annuity Payable at Both Sixty-two (62) Years of
17 Age and the Age of Benefit Commencement. If the
18 annuity starting date for the member's benefit is
19 prior to sixty-two (62) years of age and occurs
20 in a limitation year beginning on or after July
21 1, 2007, and the System has an immediately
22 commencing straight life annuity payable at both
23 sixty-two (62) years of age and the age of

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

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

- 18 a. Limitation Years Beginning Before July 1, 2007. If
19 the annuity starting date for the member's benefit is
20 after sixty-five (65) years of age and occurs in a
21 limitation year beginning before July 1, 2007, the
22 dollar limitation for the member's annuity starting
23 date is the annual amount of a benefit payable in the

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

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

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

- 16 (1) System Does Not Have Immediately Commencing
17 Straight Life Annuity Payable at Both Sixty-five
18 (65) Years of Age and the Age of Benefit
19 Commencement. If the annuity starting date for
20 the member's benefit is after sixty-five (65)
21 years of age and occurs in a limitation year
22 beginning on or after July 1, 2007, and the
23 System does not have an immediately commencing

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

- 19 (2) System Has Immediately Commencing Straight Life
20 Annuity Payable at Both Sixty-five (65) Years of
21 Age and Age of Benefit Commencement. If the
22 annuity starting date for the member's benefit is
23 after sixty-five (65) years of age and occurs in

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

1 member, computed disregarding the member's
2 accruals after sixty-five (65) years of age but
3 including actuarial adjustments even if those
4 actuarial adjustments are used to offset
5 accruals; and the adjusted immediately commencing
6 straight life annuity under the System at sixty-
7 five (65) years of age is the annual amount of
8 such annuity that would be payable under the
9 System to a hypothetical member who is sixty-five
10 (65) years of age and has the same accrued
11 benefit as the member.

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

1 preretirement survivor annuity, as defined in Section 417(c) of the
2 Internal Revenue code of 1986, as amended, upon the member's death.

3 4. Notwithstanding any other provision to the contrary, for
4 limitation years beginning on or after January 1, 1997, if payment
5 begins before the member reached sixty-two (62) years of age, the
6 reductions in the limitations in this subsection shall not apply to
7 a member who is a "qualified participant" as defined in Section
8 415(b)(2)(H) of the Internal Revenue Code of 1986, as amended.

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

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

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

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

1 2. The participating employer (or a predecessor employer) has
2 not at any time maintained a defined contribution plan in which the
3 member participated (for this purpose, mandatory employee
4 contributions under a defined benefit plan, individual medical
5 accounts under section 401(h) of the Internal Revenue Code of 1986,
6 as amended, and accounts for postretirement medical benefits
7 established under Section 419A(d)(1) of the Internal Revenue Code of
8 1986, as amended, are not considered a separate defined contribution
9 plan).

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

20 G. Effective for years beginning after December 31, 1997, if a
21 member purchases service under this title, which qualifies as
22 "permissive service credit" pursuant to Section 415(n) of the
23 Internal Revenue Code of 1986, as amended, the limitations of

1 Section 415 of the Internal Revenue Code of 1986, as amended, may be
2 met by either:

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

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

8 H. Effective for years beginning after December 31, 1997, if a
9 member repays to the System any amounts received because of the
10 member's prior termination pursuant to paragraph 3 of subsection (b)
11 of Section 2-307 of this title, such repayment shall not be taken
12 into account for purposes of Section 415 of the Internal Revenue
13 Code of 1986, as amended, pursuant to Section 415(k)(3) of the
14 Internal Revenue Code of 1986, as amended.

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

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

4 K. The Board is hereby authorized to revoke the special
5 election previously made under Internal Revenue Code Section
6 415(b)(10).

7 SECTION 11. AMENDATORY 47 O.S. 2001, Section 2-307, as
8 last amended by Section 11, Chapter 177, O.S.L. 2008 (47 O.S. Supp.
9 2008, Section 2-307), is amended to read as follows:

10 Section 2-307. (a) In the event a member of the System obtains
11 a leave of absence, of not to exceed ninety (90) days at any one
12 time, because of injury or illness or for any personal reason other
13 than the acceptance of other employment, the member's membership in
14 the System shall not terminate and the period of such leave shall be
15 counted toward retirement for length of service if, during such
16 leave of absence or at the end thereof, the member shall pay to the
17 Fund an amount equal to the contributions which would have been
18 deducted from the member's salary during such period if such leave
19 of absence had not been obtained, but if such contributions are not
20 paid during such leave or made up within thirty (30) days after the
21 end of such leave, or if such leave of absence extends for more than
22 ninety (90) days at any one time, the period of such leave shall not
23 be counted toward length of service for retirement nor in computing

1 the amount of any pension or any retirement pay or any other
2 benefits hereunder.

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

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

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

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

- 1 4. A lump-sum payment for repayment of any amount received
2 because of a member's prior termination may be repaid by:
- 3 a. a cash lump-sum payment,
 - 4 b. a trustee-to-trustee transfer from a Section 403(b)
5 annuity or custodial account, an eligible deferred
6 compensation plan described in Code Section 457(b)
7 which is maintained by an eligible employer described
8 in Code Section 457(e)(1)(A), and/or a Code Section
9 401(a) qualified plan,
 - 10 c. a direct rollover of tax-deferred funds from a Code
11 Section 403(b) annuity or custodial account, an
12 eligible deferred compensation plan described in Code
13 Section 457(b) which is maintained by an eligible
14 employer described in Code Section 457(e)(1)(A), a
15 Code Section 401(a) qualified plan, and/or a Code
16 Section 408(a) or 408(b) traditional or conduit
17 Individual Retirement Account or Annuity (IRA). Roth
18 IRAs, Coverdell Education Savings Accounts and after-
19 tax contributions shall not be used to purchase such
20 service credit, or
 - 21 d. any combination of the above methods of payment.

22 The provisions of this subsection shall not apply to absences
23 caused by such military service as may be considered as service for

1 retirement for length of service under the provisions of subsection
2 (c) of this section.

3 (c) In determining the eligibility of a member for retirement
4 based upon length of service, any service in the Armed Forces of the
5 United States or any component thereof between the 16th day of
6 September, 1940, and the 30th day of June, 1954, and any service in
7 the Armed Forces of the United States or any component thereof upon
8 call of the President of the United States or of the Governor of the
9 State of Oklahoma, together with such prior service, as would have
10 been otherwise considered as service for retirement for length of
11 service, shall be considered as service for length of service,
12 provided that the member returns and files application for
13 reinstatement as a member of the System within ninety (90) days
14 after the member's release, or opportunity for release, from such
15 Armed Forces or component thereof. The member's employing agency
16 that is making contributions to the System on behalf of the member
17 shall continue payment of contributions into the pension fund, to
18 the same force and effect as though the member was in the actual
19 employment of such agency at the same salary for a period not to
20 exceed five (5) years. If such member shall have been refunded any
21 portion of the membership contributions as provided in Section 2-308
22 of this title, the member shall be required to reimburse the Fund
23 with the same amount at the time of the member's application for

1 reinstatement in the System, before the reinstated member is given
2 credit for accrued prior service. Provided, that in no event shall
3 a member of the System who has entered such Armed Forces or
4 component thereof prior to retirement be or become eligible for
5 retirement for length of service unless the member shall thereafter
6 have been reinstated as a member of the System as provided for
7 herein, and thereafter remained a member for at least one (1) year
8 after such reinstatement.

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

11 (e) Notwithstanding any provisions herein to the contrary,
12 ~~contributions~~

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

21 2. Effective January 1, 2007, if any member dies while
22 performing qualified military service, the survivors of the member
23 are entitled to any additional benefits other than benefit accruals

1 relating to the period of qualified military service provided under
2 the System had the member resumed and then terminated employment on
3 account of death.

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

8 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated
9 2-12-09 - DO PASS, As Amended and Coauthored.