

STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED

SENATE BILL 1588

By: Barrington of the Senate

and

Armes and Pittman of the
HouseCONFERENCE COMMITTEE SUBSTITUTE

An Act relating to retirement systems; amending 11 O.S. 2011, Sections 49-100.1, 49-100.7, 49-100.9, 49-101.2, 49-106.2, 49-106.3, 49-106.4, 49-111 and 49-122.3, which relate to the Oklahoma Firefighters Pension and Retirement System; modifying definition; authorizing the use of electronic media under certain conditions; allowing assets of the System to be invested in certain trusts; prohibiting a municipality from employing a volunteer firefighter from another fire department; specifying value of certain distributions; specifying use of certain interest rate and mortality table to adjust certain benefits; specifying method to determine the interest rate and mortality assumption used to determine the actuarial equivalence of certain benefit; providing that a Roth IRA is an Eligible Retirement Plan; modifying definitions; authorizing a nonspouse designated beneficiary to directly rollover a distribution to a Roth IRA; modifying dates regarding certain distributions; clarifying language; specifying that under certain conditions certain benefits shall be nonforfeitable; amending 11 O.S. 2011, Section 50-114.1, as amended by Section 3 of Enrolled Senate Bill No. 1214 of the 2nd Session of the 53rd Oklahoma Legislature, which relates to the Oklahoma Police Pension and Retirement System; specifying use of certain interest rate and mortality table to adjust certain benefits; amending 47 O.S. 2011, Section 2-305.4, as amended by Section 4 of

1 Enrolled Senate Bill No. 1213 of the 2nd Session of
2 the 53rd Oklahoma Legislature, which relates to the
3 Oklahoma Law Enforcement Retirement System;
4 specifying use of certain interest rate and mortality
5 table to adjust certain benefits; specifying method
6 to determine the interest rate and mortality
7 assumption used to determine the actuarial
8 equivalence of certain benefit; and declaring an
9 emergency.

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

9 SECTION 1. AMENDATORY 11 O.S. 2011, Section 49-100.1, is
10 amended to read as follows:

11 Section 49-100.1. As used in this article:

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

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

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

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

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

22 6. "Member" means all eligible firefighters of a participating
23 municipality or a fire protection district who perform the essential
24 functions of fire suppression, prevention, and life safety duties in

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

1 not be a member regardless of any classification as a common law
2 employee by the Internal Revenue Service or any other governmental
3 agency, or any court of competent jurisdiction;

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

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

23 9. "Participating municipality" means a municipality, county
24 fire department organized pursuant to subsection D of Section 351 of

1 Title 19 of the Oklahoma Statutes, or fire protection district which
2 is making contributions to the System on behalf of its firefighters.
3 All participating municipalities shall appoint a fire chief who
4 shall supervise and administer the fire department;

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

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

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

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

18 14. "Final average salary" means the average paid gross salary
19 of the firefighter for normally scheduled hours over the highest
20 salaried thirty (30) consecutive months of the last sixty (60)
21 months of credited service. Gross salary shall not include payment
22 for accumulated sick or annual leave upon termination of employment,
23 any uniform allowances or any other compensation for reimbursement
24 of out-of-pocket expenses. Only salary on which the required

1 contributions have been made may be used in computing the final
2 average salary. Effective January 1, 1988, gross salary shall
3 include any amount of elective salary reduction under Section 125 of
4 the Internal Revenue Code of 1986, as amended. Gross salary shall
5 include any amount of elective salary reduction under Section 457 of
6 the Internal Revenue Code of 1986, as amended, and any amount of
7 nonelective salary reduction under Section 414(h) of the Internal
8 Revenue Code of 1986, as amended. Effective July 1, 1998, for
9 purposes of determining a member's compensation, any contribution by
10 the member to reduce the member's regular cash remuneration under
11 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be
12 treated as if the member did not make such an election. Only salary
13 on which required contributions have been made may be used in
14 computing final average salary.

15 In addition to other applicable limitations, and notwithstanding
16 any other provision to the contrary, for plan years beginning on or
17 after July 1, 2002, the annual gross salary of each "Noneligible
18 Member" taken into account under the System shall not exceed the
19 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")
20 annual salary limit. The EGTRRA annual salary limit is Two Hundred
21 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for
22 increases in the cost of living in accordance with Section
23 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The
24 annual salary limit in effect for a calendar year applies to any

1 period, not exceeding twelve (12) months, over which salary is
2 determined ("determination period") beginning in such calendar year.
3 If a determination period consists of fewer than twelve (12) months,
4 the EGTRRA salary limit will be multiplied by a fraction, the
5 numerator of which is the number of months in the determination
6 period, and the denominator of which is twelve (12). For purposes
7 of this subsection, a "Noneligible Member" is any member who first
8 became a member during a plan year commencing on or after July 1,
9 1996.

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

14 Effective June 9, 2010, gross salary shall also include gross
15 salary, as described above, for services, but paid by the later of
16 two and one-half (2 1/2) months after a firefighter's severance from
17 employment or the end of the calendar year that includes the date
18 the firefighter terminated employment, if it is a payment that,
19 absent a severance from employment, would have been paid to the
20 firefighter while the firefighter continued in employment with the
21 participating municipality.

22 Effective June 9, 2010, any payments not described above shall
23 not be considered gross salary if paid after severance from
24 employment, even if they are paid by the later of two and one-half

1 (2 1/2) months after the date of severance from employment or the
2 end of the calendar year that includes the date of severance from
3 employment, except payments to an individual who does not currently
4 perform services for the participating municipality by reason of
5 qualified military service within the meaning of Section 414(u) (5)
6 of the Internal Revenue Code of 1986, as amended, to the extent
7 these payments do not exceed the amounts the individual would have
8 received if the individual had continued to perform services for the
9 participating municipality rather than entering qualified military
10 service.

11 Effective June 9, 2010, back pay, within the meaning of Section
12 1.415(c)-2(g) (8) of the Income Tax Regulations, shall be treated as
13 gross salary for the year to which the back pay relates to the
14 extent the back pay represents wages and compensation that would
15 otherwise be included in this definition.

16 Effective for years beginning after December 31, 2008, gross
17 salary shall also include differential wage payments under Section
18 414(u) (12) of the Internal Revenue Code of 1986, as amended;

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

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

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

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

1 any amount contributed by the municipality or state and any amount
2 contributed by the municipality or state; and

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

6 SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-100.7, is
7 amended to read as follows:

8 Section 49-100.7. A. The State Board shall be responsible for
9 the policies and rules for the general administration of the System,
10 subject to the provisions of this article.

11 B. The State Board shall establish rules and regulations for
12 the administration of the System and for the transaction of its
13 business consistent with law, which rules and regulations shall be
14 filed with the Secretary of State.

15 C. The State Board shall be responsible for the installation or
16 provision of a complete and adequate system of accounts and records.

17 D. All meetings of the State Board shall be open to the public.
18 The State Board shall keep a record of its proceedings.

19 E. The State Board may adopt all necessary actuarial tables to
20 be used in the operation of the System as recommended by the actuary
21 and may compile such additional data as may be necessary for
22 required actuarial valuation calculations.

23 F. All decisions of the State Board as to questions of fact
24 shall be final and conclusive on all persons except for the right of

1 review as provided by law and except for fraud or such gross mistake
2 of fact as to have effect equivalent to fraud.

3 G. The State Board shall take all necessary action upon
4 applications for pensions, disability benefits, refund of
5 accumulated contributions and shall take action on all other matters
6 deemed necessary by the State Board, including bringing actions for
7 declaratory relief in the district courts in the state to enforce
8 the provisions of applicable state law.

9 H. On or after July 1, 2011, the State Board may permit,
10 effective for applicable notices, elections and consents provided or
11 made for a member, beneficiary, alternate payee or individual
12 entitled to benefits under the System, the use of electronic media
13 to provide such applicable notices and make such elections and
14 consents as described in Section 1.401(a)-21 of the Income Tax
15 Regulations.

16 SECTION 3. AMENDATORY 11 O.S. 2011, Section 49-100.9, is
17 amended to read as follows:

18 Section 49-100.9. A. The Oklahoma Firefighters Pension and
19 Retirement Board shall discharge their duties with respect to the
20 System solely in the interest of the participants and beneficiaries
21 and:

22 1. For the exclusive purpose of:

23 a. providing benefits to participants and their
24 beneficiaries, and

1 b. defraying reasonable expenses of administering the
2 System;

3 2. With the care, skill, prudence, and diligence under the
4 circumstances then prevailing that a prudent person acting in a like
5 capacity and familiar with such matters would use in the conduct of
6 an enterprise of a like character and with like aims;

7 3. By diversifying the investments of the System so as to
8 minimize the risk of large losses, unless under the circumstances it
9 is clearly prudent not to do so; and

10 4. In accordance with the laws, documents and instruments
11 governing the System.

12 B. The State Board may procure insurance indemnifying the
13 members of the State Board from personal loss or accountability from
14 liability resulting from a member's action or inaction as a member
15 of the State Board.

16 C. The State Board may establish an investment committee. The
17 investment committee shall be composed of not more than five (5)
18 members of the State Board appointed by the chairman of the State
19 Board. The committee shall make recommendations to the full State
20 Board on all matters related to the choice of custodians and
21 managers of the assets of the System, on the establishment of
22 investment and fund management guidelines, and in planning future
23 investment policy. The committee shall have no authority to act on
24 behalf of the State Board in any circumstances whatsoever. No

1 recommendation of the committee shall have effect as an action of
2 the State Board nor take effect without the approval of the State
3 Board as provided by law.

4 D. The Board shall retain qualified investment managers to
5 provide for the investment of the monies of the System. The
6 investment managers shall be chosen by a solicitation of proposals
7 on a competitive bid basis pursuant to standards set by the State
8 Board. Subject to the overall investment guidelines set by the
9 State Board, the investment managers shall have full discretion in
10 the management of those monies of the System allocated to the
11 investment managers. The State Board shall manage those monies not
12 specifically allocated to the investment managers. The monies of
13 the System allocated to the investment managers shall be actively
14 managed by the investment managers, which may include selling
15 investments and realizing losses if such action is considered
16 advantageous to longer term return maximization. Because of the
17 total return objective, no distinction shall be made for management
18 and performance evaluation purposes between realized and unrealized
19 capital gains and losses.

20 E. Funds and revenues for investment by the investment managers
21 or the State Board shall be placed with a custodian selected by the
22 State Board. The custodian shall be a bank or trust company
23 offering pension fund master trustee and master custodial services
24 and any related custodial agreement or trust agreement is

1 incorporated herein by reference. The custodian shall be chosen by
2 a solicitation of proposals on a competitive bid basis pursuant to
3 standards set by the State Board. In compliance with the investment
4 policy guidelines of the State Board, the custodian bank or trust
5 company shall be contractually responsible for ensuring that all
6 monies of the System are invested in income-producing investment
7 vehicles at all times. If a custodian bank or trust company has not
8 received direction from the investment managers of the System as to
9 the investment of the monies of the System in specific investment
10 vehicles, the custodian bank or trust company shall be contractually
11 responsible to the State Board for investing the monies in
12 appropriately collateralized short-term interest-bearing investment
13 vehicles. Any assets of the System may be invested in a collective
14 investment fund or group trust that satisfies the requirements of
15 Revenue Ruling 81-100, as further amended by Revenue Ruling 2004-67,
16 Revenue Ruling 2008-40, and Revenue Ruling 2011-1, and as
17 subsequently amended by future guidance. Each such collective
18 investment fund or group trust is adopted, with respect to any
19 monies invested therein, as part of the System, its trust, and
20 custodial account and each such declaration of trust or trust
21 agreement and related adoption, participation, investment
22 management, subtrust or other agreements, as amended from time to
23 time, with respect to any monies invested therein, are incorporated
24

1 by reference into the System, its trust agreement(s) or custodial
2 agreement(s), upon approval by the State Board.

3 F. By November 1, 1988, and prior to August 1 of each year
4 thereafter, the State Board shall develop a written investment plan
5 for the System.

6 G. The State Board shall compile a quarterly financial report
7 of all the funds of the System on a fiscal year basis. The report
8 shall be compiled pursuant to uniform reporting standards prescribed
9 by the Oklahoma State Pension Commission for all state retirement
10 systems. The report shall include several relevant measures of
11 investment value, including acquisition cost and current fair market
12 value with appropriate summaries of total holdings and returns. The
13 report shall contain combined and individual rate of returns of the
14 investment managers by category of investment, over periods of time.
15 The State Board shall include in the quarterly reports all
16 commissions, fees or payments for investment services performed on
17 behalf of the State Board. The report shall be distributed to the
18 Governor, the Oklahoma State Pension Commission, the Legislative
19 Service Bureau, the Speaker of the House of Representatives and the
20 President Pro Tempore of the Senate.

21 H. After July 1 and before December 1 of each year, the State
22 Board shall publish widely an annual report presented in simple and
23 easily understood language pursuant to uniform reporting standards
24 prescribed by the Oklahoma State Pension Commission for all state

1 retirement systems. The report shall be submitted to the Governor,
2 the Speaker of the House of Representatives, the President Pro
3 Tempore of the Senate, the Oklahoma State Pension Commission and the
4 members of the System. The annual report shall cover the operation
5 of the System during the past fiscal year, including income,
6 disbursements, and the financial condition of the System at the end
7 of the fiscal year. The annual report shall also contain the
8 information issued in the quarterly reports required pursuant to
9 subsection G of this section as well as a summary of the results of
10 the most recent actuarial valuation to include total assets, total
11 liabilities, unfunded liability or over funded status, contributions
12 and any other information deemed relevant by the State Board. The
13 annual report shall be written in such a manner as to permit a
14 readily understandable means for analyzing the financial condition
15 and performance of the System for the fiscal year.

16 I. Effective July 1, 2000, the State Board is hereby authorized
17 to do all acts and things necessary and proper to carry out the
18 purpose of the System and to make the least costly amendments and
19 changes, if any, as may be necessary to qualify the System under the
20 applicable sections of the Internal Revenue Code of 1986, as
21 amended.

22 SECTION 4. AMENDATORY 11 O.S. 2011, Section 49-101.2, is
23 amended to read as follows:
24

1 Section 49-101.2. Any member serving as an active volunteer
2 firefighter who receives annual compensation from ~~a~~ the fire
3 department ~~in a participating municipality~~ the firefighter is
4 enrolled in as a member of the System for services related to
5 firefighting, other than reimbursement of expenses in excess of two
6 (2) times the annual pension benefit paid by the System to a retired
7 volunteer firefighter with twenty (20) years credited service, shall
8 be considered a paid firefighter and must meet the physical and
9 agility requirements pursuant to Section 49-116 of this title to
10 continue as an active member of the System. Credited service earned
11 as a paid firefighter pursuant to this section shall not be
12 considered actual experience as a paid firefighter for purposes of
13 meeting the qualifications of a paid fire chief as provided in
14 Section 29-102 of this title. No fire department of a participating
15 municipality shall employ a volunteer firefighter from another fire
16 department to perform services relating to firefighting for any
17 compensation of any kind.

18 SECTION 5. AMENDATORY 11 O.S. 2011, Section 49-106.2, is
19 amended to read as follows:

20 Section 49-106.2. A. For limitation years prior to July 1,
21 2007, the limitations of Section 415 of the Internal Revenue Code of
22 1986, as amended, shall be computed in accordance with the
23 applicable provisions of the System in effect at that time and, to
24 the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-

1 51, except as provided below. Notwithstanding any other provision
2 contained herein to the contrary, the benefits payable to a member
3 from the System provided by employer contributions (including
4 contributions picked up by the employer under Section 414(h) of the
5 Internal Revenue Code of 1986, as amended) shall be subject to the
6 limitations of Section 415 of the Internal Revenue Code of 1986, as
7 amended, in accordance with the provisions of this section. The
8 limitations of this section shall apply in limitation years
9 beginning on or after July 1, 2007, except as otherwise provided
10 below.

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

24

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

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

- 19 a. survivor benefits payable to a surviving spouse under
20 a qualified joint and survivor annuity to the extent
21 such benefits would not be payable if the member's
22 benefit were paid in another form,
- 23 b. benefits that are not directly related to retirement
24 benefits such as a qualified disability benefit,

1 preretirement incidental death benefits, and
2 postretirement medical benefits, or
3 c. the inclusion in the form of a benefit of an automatic
4 benefit increase feature, provided, the form of
5 benefit is not subject to Section 417(e)(3) of the
6 Internal Revenue Code of 1986, as amended, and would
7 otherwise satisfy the limitations of this section, and
8 the System provides that the amount payable under the
9 form of benefit in any limitation year shall not
10 exceed the limits of this section applicable at the
11 annuity starting date, as increased in subsequent
12 years pursuant to Section 415(d) of the Internal
13 Revenue Code of 1986, as amended. For this purpose,
14 an automatic benefit increase feature is included in a
15 form of benefit if the form of benefit provides for
16 automatic, periodic increases to the benefits paid in
17 that form.

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

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

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

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

15 b. an annuity that decreases during the life of the
16 member merely because of:

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

21 (2) the cessation or reduction of Social Security
22 supplements or qualified disability payments as
23 defined in Section 411(a)(9) of the Internal
24 Revenue Code of 1986, as amended.

1 c. Limitation Years Beginning Before July 1, 2007. For
2 limitation years beginning before July 1, 2007, the
3 actuarially equivalent straight life annuity is equal
4 to the annual amount of the straight life annuity
5 commencing at the same annuity starting date that has
6 the same actuarial present value as the member's form
7 of benefit computed using whichever of the following
8 produces the greater annual 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 49-100.9 of this title
12 for adjusting benefits in the same form, and
13 (2) a five percent (5%) interest rate assumption and
14 the applicable mortality table described in
15 Revenue Ruling 2001-62 (or its successor for
16 these purposes, if applicable) for that annuity
17 starting date, ~~or.~~

18 d. Limitation ~~Years~~ Year Beginning On ~~or After July 1,~~
19 ~~2007~~ January 1, 2008. For the limitation ~~years~~ year
20 beginning on ~~or after July 1, 2007~~ January 1, 2008,
21 the actuarially equivalent straight life annuity is
22 equal to the greater of:

- 23 (1) the annual amount of the straight life annuity,
24 if any, payable to the member under the System

1 commencing at the same annuity starting date as
2 the member's form of benefit, and

- 3 (2) 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 a five
7 percent (5%) interest rate assumption and the
8 applicable mortality table described in Revenue
9 Ruling 2001-62 (or its successor for these
10 purposes, if applicable) for that annuity
11 starting date.

12 e. Limitation Years Beginning On or After July 1, 2008.

13 For limitation years beginning on or after July 1,
14 2008, the actuarially equivalent straight life annuity
15 is equal to the greater of:

16 (1) the annual amount of the straight life annuity,
17 if any, payable to the member under the System
18 commencing at the same annuity starting date as
19 the member's form of benefit, and

20 (2) the annual amount of the straight life annuity
21 commencing at the same annuity starting date that
22 has the same actuarial present value as the
23 member's form of benefit, computed using a five
24 percent (5%) interest rate assumption and the

1 applicable mortality table within the meaning of
2 Section 417(e)(3)(B) of the Internal Revenue Code
3 of 1986, as amended, as described in Revenue
4 Ruling 2007-67 (and subsequent guidance) for that
5 annuity starting date.

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

13 a. Annuity Starting Date ~~in Plan Years Beginning After~~
14 ~~December 31, 2007 (Plan Years beginning on or after~~
15 ~~July 1, 2008)~~ on or after January 1, 2009. If the
16 annuity starting date of the member's form of benefit
17 is in the period beginning on January 1, 2009 through
18 June 30, 2009, or in a plan year beginning after
19 ~~December 31, 2007~~ June 30, 2009, the actuarially
20 equivalent straight life annuity is equal to the
21 greatest of (1), (2) ~~or~~ and (3) below:

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

1 member's form of benefit, computed using the
2 interest rate and the mortality table or other
3 tabular factor as set forth in the most recent
4 valuation referenced in subsection H of Section
5 49-100.9 of this title prior to September 1,
6 2011, and effective September 1, 2011, in
7 subsection L of this section for adjusting
8 benefits in the same form,

9 (2) the annual amount of the straight life annuity
10 commencing at the same annuity starting date that
11 has the same actuarial present value as the
12 member's form of benefit, computed using a five
13 and one-half percent (5.5%) interest rate
14 assumption and the applicable mortality table
15 within the meaning of Section 417(e) (3) (B) of the
16 Internal Revenue Code of 1986, as amended, as
17 described in Revenue Ruling 2007-67 (and
18 subsequent guidance), and

19 (3) the annual amount of the straight life annuity
20 commencing at the same annuity starting date that
21 has the same actuarial present value as the
22 member's form of benefit, computing using:
23 (a) the adjusted first, second, and third
24 segment rates under Section 417(e) (3) (C) and

1 (D) of the Internal Revenue Code of 1986, as
2 amended, applied under rules similar to the
3 rules of Section 430(h)(2)(C) of the
4 Internal Revenue Code of 1986, as amended,
5 for the fourth calendar month preceding the
6 plan year in which falls the annuity
7 starting date for the distribution and the
8 stability period is the successive period of
9 one plan year which contains the annuity
10 starting date for the distribution and for
11 which the applicable interest rate remains
12 constant, or as otherwise provided in the
13 applicable guidance if the first day of the
14 first plan year beginning after December 31,
15 2007, does not coincide with the first day
16 of the applicable stability period, and
17 (b) the applicable mortality table within the
18 meaning of Section 417(e)(3)(B) of the
19 Internal Revenue Code of 1986, as amended,
20 as described in Rev. Rul. 2007-67 (and
21 subsequent guidance),
22 divided by one and five one-hundredths (1.05).

23 b. Annuity Starting Date in the Period Beginning on July
24 1, 2008 through December 31, 2008. If the annuity

1 starting date of the member's form of benefit is in
2 the period beginning on July 1, 2008 through December
3 31, 2008, the actuarially equivalent straight life
4 annuity is equal to the greatest of (1), (2) and (3)
5 below:

- 6 (1) the annual amount of the straight life annuity
7 commencing at the same annuity starting date that
8 has the same actuarial present value as the
9 member's form of benefit, computed using the
10 interest rate and the mortality table or other
11 tabular factor each as set forth in subsection H
12 of Section 49-100.9 of this title for adjusting
13 benefits in the same form,
- 14 (2) the annual amount of the straight life annuity
15 commencing at the same annuity starting date that
16 has the same actuarial present value as the
17 member's form of benefit, computed using a five
18 and one-half percent (5.5%) interest rate
19 assumption and the applicable mortality table
20 described in Revenue Ruling 2001-62 (or its
21 successor for these purposes, if applicable), and
- 22 (3) the annual amount of the straight life annuity
23 commencing at the same annuity starting date that
24

1 has the same actuarial present value as the
2 member's form of benefit, computed using:

- 3 (a) the adjusted first, second, and third
4 segment rates under Section 417(e)(3)(C) and
5 (D) of the Internal Revenue Code of 1986, as
6 amended, applied under rules similar to the
7 rules of Section 430(h)(2)(C) of the
8 Internal Revenue Code of 1986, as amended,
9 for the fourth calendar month preceding the
10 plan year in which falls the annuity
11 starting date for the distribution and the
12 stability period is the successive period of
13 one plan year which contains the annuity
14 starting date for the distribution and for
15 which the applicable interest rate remains
16 constant, or as otherwise provided in the
17 applicable guidance if the first day of the
18 first plan year beginning after December 31,
19 2007, does not coincide with the first day
20 of the applicable stability period, and
21 (b) the applicable mortality table described in
22 Revenue Ruling 2001-62 (or its successor for
23 these purposes, if applicable),
24 divided by one and five one-hundredths (1.05).

1 ~~b.~~

2 c. Annuity Starting Date in Plan Years Beginning in 2006
3 or 2007. If the annuity starting date of the member's
4 form of benefit is in a plan year beginning in 2006 or
5 2007, the actuarially equivalent straight life annuity
6 is equal to the greatest of (1), (2) ~~or~~ and (3) below:

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

15 (2) the annual amount of the straight life annuity
16 commencing at the same annuity starting date that
17 has the same actuarial present value as the
18 member's form of benefit, computed using a five
19 and one-half percent (5.5%) interest rate
20 assumption and the applicable mortality table
21 described in Revenue Ruling 2001-62 (or its
22 successor for these purposes, if applicable), and

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

1 has the same actuarial present value as the
2 member's form of benefit, computed using:

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

19 ~~e.~~

20 d. Annuity Starting Date in Plan Years Beginning in 2004
21 or 2005.

- 22 (1) If the annuity starting date of the member's form
23 of benefit is in a plan year beginning in 2004 or
24 2005, the actuarially equivalent straight life

1 annuity is equal to the annual amount of the
2 straight life annuity commencing at the same
3 annuity starting date that has the same actuarial
4 present value as the member's form of benefit,
5 computed using whichever of the following
6 produces the greater annual amount:

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

12 (b) a five and one-half percent (5.5%) interest
13 rate assumption and the applicable mortality
14 table described in Revenue Ruling 2001-62
15 (or its successor for these purposes, if
16 applicable).

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

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

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

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

1 applicable interest rate remains
2 constant, and

3 ii. the applicable mortality table
4 described in Revenue Ruling 2001-62 (or
5 its successor for these purposes, if
6 applicable), and

7 (c) i. the rate of interest on thirty-year
8 Treasury securities as specified by the
9 Commissioner for the lookback month for
10 the stability period specified below.

11 The lookback month applicable to the
12 stability period is the fourth calendar
13 month preceding the first day of the
14 stability period, as specified below.

15 The stability period is the successive
16 period of one plan year which contains

17 the annuity starting date for the

18 distribution and for which the

19 applicable interest rate remains

20 constant (as in effect on the last day
21 of the last plan year beginning before

22 January 1, 2004, under provisions of

23 the System then adopted and in effect),

24 and

1 ii. the applicable mortality table
2 described in Revenue Ruling 2001-62 (or
3 its successor for these purposes, if
4 applicable).

5 C. If a member has less than ten (10) years of participation in
6 the System and all predecessor municipal firefighter 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, or
10 part thereof, in the System of the member, but never less than one
11 (1), and the denominator of which is ten (10).

12 D. Adjustment of Dollar Limitation for Benefit Commencement
13 Before Sixty-two (62) Years of Age or After Sixty-five (65) Years of
14 Age: Effective for benefits commencing in limitation years ending
15 after December 31, 2001, the dollar limitation under subsection B of
16 this section shall be adjusted if the annuity starting date of the
17 member's benefit is before sixty-two (62) years of age or after
18 sixty-five (65) years of age. If the annuity starting date is
19 before sixty-two (62) years of age, the dollar limitation under
20 subsection B of this section shall be adjusted under paragraph 1 of
21 this subsection, as modified by paragraph 3 of this subsection, but
22 subject to paragraph 4 of this subsection. If the annuity starting
23 date is after sixty-five (65) years of age, the dollar limitation
24

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

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

5 a. Limitation Years Beginning Before July 1, 2007. If
6 the annuity starting date for the member's benefit is
7 prior to sixty-two (62) years of age and occurs in a
8 limitation year beginning before July 1, 2007, the
9 dollar limitation for the member's annuity starting
10 date is the annual amount of a benefit payable in the
11 form of a straight life annuity commencing at the
12 member's annuity starting date that is the actuarial
13 equivalent of the dollar limitation under subsection B
14 of this section (adjusted under subsection C of this
15 section for years of participation less than ten (10),
16 if 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 H of Section 49-100.9 of this title,
22 or
23 (2) a five percent (5%) interest rate assumption and
24 the applicable mortality table as described in

1 Revenue Ruling 2001-62 (or its successor for
2 these purposes, if applicable).

3 b. Limitation Years Beginning On ~~or~~ or After July 1,
4 2007.

5 (1) System Does Not Have Immediately Commencing
6 Straight Life Annuity Payable at Both Sixty-two
7 (62) Years of Age and the Age of Benefit
8 Commencement.

9 (a) If the annuity starting date for the
10 member's benefit is prior to sixty-two (62)
11 years of age and occurs in a the limitation
12 year beginning on ~~or after July 1, 2007~~
13 January 1, 2008, and the System does not
14 have an immediately commencing straight life
15 annuity payable at both sixty-two (62) years
16 of age and the age of benefit commencement,
17 the dollar limitation for the member's
18 annuity starting date is the annual amount
19 of a benefit payable in the form of a
20 straight life annuity commencing at the
21 member's annuity starting date that is the
22 actuarial equivalent of the dollar
23 limitation under subsection B of this
24 section (adjusted under subsection C of this

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

11 (b) If the annuity starting date for the
12 member's benefit is prior to sixty-two (62)
13 years of age and occurs in a limitation year
14 beginning on or after January 1, 2009, and
15 the System does not have an immediately
16 commencing straight life annuity payable at
17 both sixty-two (62) years of age and the age
18 of benefit commencement, the dollar
19 limitation for the member's annuity starting
20 date is the annual amount of a benefit
21 payable in the form of a straight life
22 annuity commencing at the member's annuity
23 starting date that is the actuarial
24 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
4 required) with actuarial equivalence
5 computed using a five percent (5%) interest
6 rate assumption and the applicable mortality
7 table within the meaning of Section
8 417(e) (3) (B) of the Internal Revenue Code of
9 1986, as amended, as described in Revenue
10 Ruling 2007-67 (and subsequent guidance)
11 (and expressing the member's age based on
12 completed calendar months as of the annuity
13 starting date).

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

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

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

- 16 a. Limitation Years Beginning Before July 1, 2007. If
17 the annuity starting date for the member's benefit is
18 after sixty-five (65) years of age and occurs in a
19 limitation year beginning before July 1, 2007, the
20 dollar limitation for the member's annuity starting
21 date is the annual amount of a benefit payable in the
22 form of a straight life annuity commencing at the
23 member's annuity starting date that is the actuarial
24 equivalent of the dollar limitation under subsection B

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

6 (1) the interest rate and the mortality table or
7 other tabular factor, each as set forth in
8 subsection H of Section 49-100.9 of this title,
9 or

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

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

20 (a) If the annuity starting date for the
21 member's benefit is after sixty-five (65)
22 years of age and occurs in ~~a~~ the limitation
23 year beginning on ~~or after July 1, 2007~~
24 January 1, 2008, and the System does not

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

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

1 beginning on or after January 1, 2009, and
2 the System does not have an immediately
3 commencing straight life annuity payable at
4 both sixty-five (65) years of age and the
5 age of benefit commencement, the dollar
6 limitation at the member's annuity starting
7 date is the annual amount of a benefit
8 payable in the form of a straight life
9 annuity commencing at the member's annuity
10 starting date that is the actuarial
11 equivalent of the dollar limitation under
12 subsection B of this section (adjusted under
13 subsection C of this section for years of
14 participation less than ten (10), if
15 required) with actuarial equivalence
16 computed using a five percent (5%) interest
17 rate assumption and the applicable mortality
18 table within the meaning of Section
19 417(e) (3) (B) of the Internal Revenue Code of
20 1986, as amended, as described in Revenue
21 Ruling 2007-67 (and subsequent guidance)
22 (and expressing the member's age based on
23 completed calendar months as of the annuity
24 starting date).

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

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

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

1 no forfeiture shall be treated as occurring upon the member's death
2 if the System does not charge members for providing a qualified
3 preretirement survivor annuity, as defined in Section 417(c) of the
4 Internal Revenue Code of 1986, as amended, upon the member's death.

5 4. Notwithstanding any other provision to the contrary, for
6 limitation years beginning on or after January 1, 1997, if payment
7 begins before the member reaches sixty-two (62) years of age, the
8 reductions in the limitations in this subsection shall not apply to
9 a member who is a "qualified participant" as defined in Section
10 415(b)(2)(H) of the Internal Revenue Code of 1986, as amended.

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

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

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

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

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

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

21 G. For limitation years beginning on or after January 1, 1995,
22 subsection C of this section, paragraph 1 of subsection D of this
23 section, and the proration provided under subparagraphs a and b of
24 paragraph 1 of subsection E of this section, shall not apply to a

1 benefit paid under the System as a result of the member becoming
2 disabled by reason of personal injuries or sickness, or amounts
3 received by the beneficiaries, survivors or estate of the member as
4 a result of the death of the member.

5 H. Effective for years beginning after December 31, 1997, if a
6 member purchases service under Sections 49-117.2 and 49-117.3 of
7 this title, which qualifies as "permissive service credit" pursuant
8 to Section 415(n) of the Internal Revenue Code of 1986, as amended,
9 the limitations of Section 415 of the Internal Revenue Code of 1986,
10 as amended, may be met by either:

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

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

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

23

24

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 State Board is hereby authorized to revoke the special
5 election previously made on June 21, 1991, under Section 415(b)(10)
6 of the Internal Revenue Code of 1986, as amended.

7 L. Effective September 1, 2011, the interest rate and mortality
8 assumptions for the System used to determine the actuarial
9 equivalence of a member's form of benefit shall be set by the State
10 Board in a manner that precludes employer discretion, shall be based
11 upon recommendations from independent professional advisors and
12 shall be published annually in the actuarial valuation.

13 SECTION 6. AMENDATORY 11 O.S. 2011, Section 49-106.3, is
14 amended to read as follows:

15 Section 49-106.3. A. For distributions made on or after
16 January 1, 2002, and notwithstanding any provision of the System to
17 the contrary that would otherwise limit a Distributee's election
18 hereunder, a Distributee, including a nonspouse designated
19 beneficiary, to the extent permitted under paragraph 3 of subsection
20 B of this section, may elect, at the time and in the manner
21 prescribed by the State Board, to have any portion of an Eligible
22 Rollover Distribution paid, ~~as specified by the Distributee in a~~
23 ~~Direct Rollover,~~ directly to:

24 ~~1. An Eligible Retirement Plan; or~~

1 ~~2. Effective for distributions after December 31, 2007, a Roth~~
2 ~~IRA described in Section 408A of the Internal Revenue Code of 1986,~~
3 ~~as amended, subject to any limitations described in Section 408A(e)~~
4 ~~of the Internal Revenue Code of 1986, as amended~~ an Eligible
5 Retirement Plan specified by the Distributee in a Direct Rollover.

6 B. For purposes of this section, the following definitions
7 shall apply:

8 1. "Eligible Rollover Distribution" means any distribution of
9 all or any portion of the balance to the credit of the Distributee,
10 except that an Eligible Rollover Distribution does not include any
11 distribution that is one of a series of substantially equal periodic
12 payments (not less frequently than annually) made for the life (or
13 life expectancy) of the Distributee or the joint lives (or life
14 expectancies) of the Distributee and the Distributee's designated
15 beneficiary, or for a specified period of ten (10) years or more;
16 any distribution to the extent such distribution is required under
17 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;
18 and the portion of any distribution that is not includable in gross
19 income. ~~Effective January 1, 2002, a~~ A portion of a distribution
20 shall not fail to be an Eligible Rollover Distribution merely
21 because the portion consists of after-tax member contributions which
22 are not includable in gross income. However, such portion may be
23 transferred only:

24 (a) from January 1, 2002, through December 31, 2006:

1 (1) to an individual retirement account or annuity
2 described in Section 408(a) or (b) of the

3 Internal Revenue Code of 1986, as amended, or

4 (2) in a direct trustee-to-trustee transfer, to a
5 qualified trust which is a part of a defined

6 contribution plan that agrees to separately

7 account for amounts so transferred, including

8 separately accounting for the portion of such

9 distribution which is includable in gross income

10 and the portion of such distribution which is not

11 so includable, and

12 (b) on or after January 1, 2007:

13 (1) to an individual retirement account or annuity
14 described in Section 408(a) or (b) of the

15 Internal Revenue Code of 1986, as amended, or

16 (2) in a direct trustee-to-trustee transfer, to a
17 qualified trust or an annuity contract described

18 in Section 403(b) of the Internal Revenue Code of

19 1986, as amended, and such trust or contract

20 provides for separate accounting for amounts so

21 transferred (and earnings thereon), including

22 separately accounting for the portion of such

23 distribution which is includable in gross income

24

1 and the portion of such distribution which is not
2 so includable.

3 Effective for distributions after December 31, 2007, such after-
4 tax portion may also be directly transferred to a Roth ~~IRA~~
5 individual retirement account or annuity described in Section 408A
6 of the Internal Revenue Code of 1986, as amended, (Roth IRA),
7 subject to any limitations described in Section 408A(c) of the
8 Internal Revenue Code of 1986, as amended, ~~that agrees to separately~~
9 ~~account for amounts so transferred, including separately accounting~~
10 ~~for the portion of such distribution which is includable in gross~~
11 ~~income and the portion of such distribution which is not so~~
12 ~~includable;~~

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

1 maintained by a state, political subdivision of a state, or any
2 agency or instrumentality of a state or political subdivision of a
3 state and which agrees to separately account for amounts transferred
4 into such plan from the System. Effective for distributions after
5 December 31, 2007, an Eligible Retirement Plan includes a Roth IRA,
6 subject to any limitations described in Section 408A(c) of the
7 Internal Revenue Code of 1986, as amended;

8 3. "Distributee" means a member whether or not the member is an
9 active firefighter. In addition, ~~effective June 7, 1993,~~ the
10 member's surviving spouse and the member's spouse or former spouse
11 who is an alternate payee under a qualified domestic order, as
12 provided in subsection B of Section 49-126 of this title, are
13 Distributees with regard to the interest of the spouse or former
14 spouse. Effective for distributions after December 31, 2006, a
15 Distributee also includes the member's nonspouse designated
16 beneficiary, and certain trusts described in Section 402(c)(11)(B)
17 of the Internal Revenue Code of 1986, as amended, pursuant to
18 Section 401(a)(9)(E) of the Internal Revenue Code of 1986, as
19 amended, who may elect any portion of a payment to be made in a
20 Direct Rollover only to ~~an~~ a traditional individual retirement
21 account or annuity (other than an endowment contract) described in
22 Section 408(a) or (b) of the Internal Revenue Code of 1986, as
23 amended, (IRA), or, effective for distributions after December 31,
24 2007 to a Roth IRA, that is established on behalf of such nonspouse

1 designated beneficiary for the purpose of receiving the distribution
2 and that will be treated as an inherited IRA pursuant to the
3 provisions of Section 402(c)(11) of the Internal Revenue Code of
4 1986, as amended. Also, in this case, the determination of any
5 required minimum distribution under Section 401(a)(9) of the
6 Internal Revenue Code of 1986, as amended, that is ineligible for
7 rollover shall be made in accordance with Notice 2007-7, Q&A 17 and
8 18, 2007-5 Internal Revenue Bulletin 395. The required minimum
9 distribution rules of Section 401(a)(9)(B) (other than clause iv
10 thereof) of the Internal Revenue Code of 1986, as amended, apply to
11 the transferee IRA. ~~To the extent permitted or required under the~~
12 ~~Worker, Retiree and Employer Recovery Act of 2008, Notice 2008-30,~~
13 ~~2008-12 I.R.B. 638 and/or any other regulatory guidance, effective~~
14 ~~for plan years beginning after December 31, 2009, a nonspouse~~
15 ~~designated beneficiary (as described in and in accordance with~~
16 ~~Section 402(c)(11) of the Internal Revenue Code of 1986, as~~
17 ~~amended), may directly roll over a distribution to a Roth IRA; and~~

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

24

1 C. At least thirty (30) days before and, effective for years
2 beginning after December 31, 2006, not more than one hundred eighty
3 (180) days before the date of distribution, the Distributee (other
4 than a nonspouse designated beneficiary prior to July 1, 2010) must
5 be provided with a notice of rights which satisfies Section 402(f)
6 of the Internal Revenue Code of 1986, as amended, as to rollover
7 options and tax effects. Such distribution may commence less than
8 thirty (30) days after the notice is given, provided that:

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

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

15 D. For distributions made after December 31, 2006~~7~~ but prior to
16 July 1, 2010, a distribution with respect to a nonspouse designated
17 beneficiary shall be made in accordance with Notice 2007-7, Q&A 15,
18 2007-5 Internal Revenue Bulletin 395. Effective for plan years
19 beginning after December 31, 2009, a distribution with respect to a
20 nonspouse designated beneficiary shall be subject to Sections
21 401(a)(31), 402(f) and 3405(c) of the Internal Revenue Code of 1986,
22 as amended.

23 SECTION 7. AMENDATORY 11 O.S. 2011, Section 49-106.4, is
24 amended to read as follows:

1 Section 49-106.4. 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, to have a direct trustee-to-trustee transfer of any portion
7 of such beneficiary's distribution from the Oklahoma Firefighters
8 Pension and Retirement System after December 31, 2006, made only to
9 ~~an~~ a traditional individual retirement account or individual
10 retirement annuity (other than an endowment contract) described in
11 Section 408(a) or (b) of the Internal Revenue Code of 1986, as
12 amended (IRA), or, effective for distributions after December 31,
13 2007, to a Roth individual retirement account or annuity described
14 in Section 408A of the Internal Revenue Code of 1986, as amended
15 (Roth IRA), that is established on behalf of such designated
16 individual for the purpose of receiving the distribution. If such
17 transfer is made then:

18 1. For distributions made after December 31, 2006, but prior to
19 July 1, 2010, the transfer is treated as an eligible rollover
20 distribution for purposes of Section 402(c)(11) of the Internal
21 Revenue Code of 1986, as amended. For plan years beginning after
22 December 31, 2009, the transfer is treated as an eligible rollover
23 distribution;

24

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

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

9 ~~4. Notwithstanding the foregoing provisions of this section, to
10 the extent permitted or required under the Worker, Retiree and
11 Employer Recovery Act of 2008, Notice 2008-30, 2008-12 I.R.B. 638
12 and/or any other regulatory guidance, effective for plan years
13 beginning after December 31, 2009, a nonspouse designated
14 beneficiary (as described in and in accordance with Section
15 402(c)(11) of the Internal Revenue Code of 1986, as amended), may
16 elect to have a direct trustee-to-trustee transfer of any portion of
17 such beneficiary's distribution from the Oklahoma Firefighters
18 Pension and Retirement System to a Roth IRA.~~

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

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

1 SECTION 8. AMENDATORY 11 O.S. 2011, Section 49-111, is
2 amended to read as follows:

3 Section 49-111. A. Whenever any member of the fire department
4 of any municipality, on account of sickness or temporary disability,
5 other than a burn injury, caused or sustained while in the discharge
6 of the member's duty as such member, is unable to perform the
7 member's duties, notwithstanding the workers' compensation
8 ~~provisions of Sections 11 and 12~~ of Title 85 of the Oklahoma
9 Statutes related to temporary disability benefits, the salary shall
10 be paid by the municipality to the member and shall continue while
11 the member is sick or temporarily disabled for a period of not more
12 than six (6) months with the municipality having the option of
13 extending the period for up to an additional six (6) months, not to
14 exceed a total of twelve (12) months, after which period the
15 provisions for disability benefits under the Oklahoma Firefighters
16 Pension and Retirement System shall apply. The salary received by
17 the member under this subsection while the member is sick or
18 temporarily disabled for a period specified in this subsection shall
19 be, or deemed to be, part of the member's actual paid gross salary
20 under the Oklahoma Firefighters Pension and Retirement System.
21 Contributions shall be made on actual paid gross salary paid
22 pursuant to this section.

23 B. Whenever any member of the fire department of any
24 municipality, on account of a burn injury, caused or sustained while

1 in the discharge of the member's duty as such member, is unable to
2 perform the member's duties, notwithstanding the workers'
3 compensation provisions ~~of Sections 11 and 12~~ of Title 85 of the
4 Oklahoma Statutes related to temporary disability benefits, the
5 salary shall be paid by the municipality to the member and shall
6 continue while the member is sick or temporarily disabled for a
7 period of not more than twelve (12) months with the municipality
8 having the option of extending the period for up to an additional
9 six (6) months, not to exceed a total of eighteen (18) months, after
10 which said period the provisions for disability benefits under the
11 Oklahoma Firefighters Pension and Retirement System shall apply.
12 The salary received by the member under this subsection while the
13 member is sick or temporarily disabled for a period specified in
14 this subsection shall be, or deemed to be, part of the member's
15 actual paid gross salary under the Oklahoma Firefighters Pension and
16 Retirement System. Contributions shall be made on actual paid gross
17 salary paid pursuant to this section.

18 C. Should a member receiving a salary under this section be
19 eligible to receive, and should the salary of the member under this
20 section exceed any temporary disability benefit paid to the member
21 under ~~Section 1 et seq.~~ the workers' compensation provisions of
22 Title 85 of the Oklahoma Statutes, the member shall transfer such
23 temporary disability benefits under ~~Section 1 et seq.~~ the workers'
24

1 compensation provisions of Title 85 of the Oklahoma Statutes to the
2 municipality while the member is sick or temporarily disabled.

3 SECTION 9. AMENDATORY 11 O.S. 2011, Section 49-122.3, is
4 amended to read as follows:

5 Section 49-122.3. The assets of the Fund shall consist of such
6 assets and the income therefrom, including monthly contributions
7 made to the State Board by each municipality, or property for which
8 any of the same shall be exchanged or into which any of the same
9 shall be converted, together with any other assets held from time to
10 time hereunder by the State Board. All legal right, title and
11 interest in and to the assets of the Fund shall at all times be held
12 in trust and vested exclusively in the State Board or its nominee
13 and no municipality shall be deemed to have severable ownership of
14 any asset of the Fund or any right of partition or possession.

15 The State Board shall appraise and place valuation upon the
16 assets of the Fund held by it as of the last business day of each
17 month. Any assets not held by the State Board shall be appraised
18 and valued by the Executive Director on said date.

19 The valuation of all assets of the Fund shall be both at cost
20 and at the fair market value thereof, as determined by reference to
21 the best available source or sources, in the opinion of the
22 Executive Director and the State Board and both the Executive
23 Director and State Board may rely on figures, or statements
24 appearing in any reputable publication purporting to state sales

1 prices, market quotations, values, bid and asking prices or any
2 facts affecting values and upon the opinion of one or more persons
3 familiar with the reasonable market value of any assets to be valued
4 and shall incur no liability for error in any such valuation made in
5 good faith. The reasonable and equitable decision of the Executive
6 Director and State Board regarding the method used in determining
7 values shall be conclusive and binding upon all persons, natural or
8 legal, having interest, direct or indirect, in the Fund's assets.

9 Effective July 1, 2011, upon termination or partial termination
10 of the System, or a permanent discontinuance of contributions, the
11 benefits accrued up to the date of termination or discontinuance, to
12 the extent then funded, by the affected members and their
13 beneficiaries, respectively, or the amounts credited to the affected
14 members' accounts, shall be nonforfeitable.

15 SECTION 10. AMENDATORY 11 O.S. 2011, Section 50-114.1,
16 as amended by Section 3 of Enrolled Senate Bill No. 1214 of the 2nd
17 Session of the 53rd Oklahoma Legislature, is amended to read as
18 follows:

19 Section 50-114.1. A. For limitation years prior to July 1,
20 2007, the limitations of Section 415 of the Internal Revenue Code of
21 1986, as amended, shall be computed in accordance with the
22 applicable provisions of the System in effect at that time and, to
23 the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-
24 51, except as provided below. Notwithstanding any other provision

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

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

23 1. The member's annual benefit is a benefit that is payable
24 annually in the form of a straight life annuity. Except as provided

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

- 16 2. No actuarial adjustment to the benefit shall be made for:
- 17 a. survivor benefits payable to a surviving spouse under
18 a qualified joint and survivor annuity to the extent
19 such benefits would not be payable if the member's
20 benefit were paid in another form,
 - 21 b. benefits that are not directly related to retirement
22 benefits (such as a qualified disability benefit,
23 preretirement incidental death benefits, and
24 postretirement medical benefits), or

1 c. the inclusion in the form of benefit of an automatic
2 benefit increase feature, provided the form of benefit
3 is not subject to Section 417(e) (3) of the Internal
4 Revenue Code of 1986, as amended, and would otherwise
5 satisfy the limitations of this section, and the
6 System provides that the amount payable under the form
7 of benefit in any limitation year shall not exceed the
8 limits of this section applicable at the annuity
9 starting date, as increased in subsequent years
10 pursuant to Section 415(d) of the Internal Revenue
11 Code of 1986, as amended. For this purpose, an
12 automatic benefit increase feature is included in a
13 form of benefit if the form of benefit provides for
14 automatic, periodic increases to the benefits paid in
15 that form.

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

23 4. Effective for distributions in plan years beginning after
24 December 31, 2003, the determination of actuarial equivalence of

1 forms of benefit other than a straight life annuity shall be made in
2 accordance with paragraph 5 or paragraph 6 of this subsection.

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

8 a. a nondecreasing annuity (other than a straight life
9 annuity) payable for a period of not less than the
10 life of the member (or, in the case of a qualified
11 preretirement survivor annuity, the life of the
12 surviving spouse), or

13 b. an annuity that decreases during the life of the
14 member merely because of:

15 (1) the death of the survivor annuitant (but only if
16 the reduction is not below fifty percent (50%) of
17 the benefit payable before the death of the
18 survivor annuitant), or

19 (2) the cessation or reduction of Social Security
20 supplements or qualified disability payments (as
21 defined in Section 411(a)(9) of the Internal
22 Revenue Code of 1986, as amended).

23 c. Limitation Years Beginning Before July 1, 2007. For
24 limitation years beginning before July 1, 2007, the

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

- 7 (1) the interest rate and the mortality table (or
8 other tabular factor), each as set forth in
9 subsection G of Section 50-105.4 of this title
10 for adjusting benefits in the same form; and
11 (2) a five percent (5%) interest rate assumption and
12 the applicable mortality table described in Rev.
13 Rul. 2001-62 (or its successor for these
14 purposes, if applicable) for that annuity
15 starting date.

16 d. Limitation Year Beginning On January 1, 2008. For the
17 limitation year beginning on January 1, 2008, the
18 actuarially equivalent straight life annuity is equal
19 to the greater of:

- 20 (1) the annual amount of the straight life annuity
21 (if any) payable to the member under the System
22 commencing at the same annuity starting date as
23 the member's form of benefit, and
24

1 (2) the annual amount of the straight life annuity
2 commencing at the same annuity starting date that
3 has the same actuarial present value as the
4 member's form of benefit, computed using a five
5 percent (5%) interest rate assumption and the
6 applicable mortality table described in Rev. Rul.
7 2001-62 (or its successor for these purposes, if
8 applicable) for that annuity starting date.

9 e. Limitation Years Beginning On or After July 1, 2008.

10 For limitation years beginning on or after July 1,
11 2008, 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 within the meaning of
23 Section 417(e)(B) of the Internal Revenue Code of
24 1986, as amended, as described in Rev. Rul. 2007-

1 67 (and subsequent guidance) for that annuity
2 starting date.

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

10 a. Annuity Starting Date on or after January 1, 2009. If
11 the annuity starting date of the member's form of
12 benefit is in the period beginning on January 1, 2009,
13 through June 30, 2009, or in a plan year beginning
14 after June 30, 2009, the actuarially equivalent
15 straight life annuity is equal to the greatest of (1),
16 (2) and (3) below:

17 (1) 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 the
21 interest rate and the mortality table (or other
22 tabular factor) ~~each~~ as set forth in the most
23 recent actuarial valuation referenced in
24 subsection G of Section 50-105.4 of this title

1 prior to September 1, 2011, and effective
2 September 1, 2011, in paragraph 22 of Section 50-
3 101 of this title, for adjusting benefits in the
4 same form,

5 (2) the annual amount of the straight life annuity
6 commencing at the same annuity starting date that
7 has the same actuarial present value as the
8 member's form of benefit, computed using a five
9 and one-half percent (5.5%) interest rate
10 assumption and the applicable mortality table
11 within the meaning of Section 417 (e) (3) (B) of
12 the Internal Revenue Code of 1986, as amended, as
13 described in Rev. Rul. 2007-67 (and subsequent
14 guidance), and

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

19 (a) the adjusted first, second, and third
20 segment rates under Section 417(e) (3) (C) and
21 (D) of the Internal Revenue Code of 1986, as
22 amended, applied under rules similar to the
23 rules of Section 430(h) (2) (C) of the
24 Internal Revenue Code of 1986, as amended,

1 for the fourth calendar month preceding the
2 plan year in which falls the annuity
3 starting date for the distribution and the
4 stability period is the successive period of
5 one (1) plan year which contains the annuity
6 starting date for the distribution and for
7 which the applicable interest rate remains
8 constant, or as otherwise provided in the
9 applicable guidance if the first day of the
10 first plan year beginning after December 31,
11 2007, does not coincide with the first day
12 of the applicable stability period, and

13 (b) the applicable mortality table within the
14 meaning of Section 417(e)(3)(B) of the
15 Internal Revenue Code of 1986, as amended,
16 as described in Rev. Rul. 2007-67 (and
17 subsequent guidance), divided by one and
18 five one-hundredths (1.05).

19 b. Annuity Starting Date in the Period Beginning on July
20 1, 2008 through December 31, 2008. If the annuity
21 starting date of the member's form of benefit is in
22 the period beginning on July 1, 2008, through December
23 31, 2008, the actuarially equivalent straight life
24

1 annuity is equal to the greatest of (1), (2) and (3)
2 below:

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 (or its successor
18 for these purposes, if applicable), and

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

23 (a) the adjusted first, second, and third
24 segment rates under Section 417(e)(3)(C) and

1 (D) of the Internal Revenue Code of 1986, as
2 amended, applied under rules similar to the
3 rules of Section 430(h)(2)(C) of the
4 Internal Revenue Code of 1986, as amended,
5 for the fourth calendar month preceding the
6 plan year in which falls the annuity
7 starting date for the distribution and the
8 stability period is the successive period of
9 one (1) plan year which contains the annuity
10 starting date for the distribution and for
11 which the applicable interest rate remains
12 constant, or as otherwise provided in the
13 applicable guidance if the first day of the
14 first plan year beginning after December 31,
15 2007, does not coincide with the first day
16 of the applicable stability period, and

17 (b) the applicable mortality table described in
18 Rev. Rul. 2001-62 (or its successor for
19 these purposes, if applicable),

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

21 c. Annuity Starting Date in Plan Years Beginning in 2006
22 or 2007. If the annuity starting date of the member's
23 form of benefit is in a Plan Year beginning in 2006 or
24

1 2007, the actuarially equivalent straight life annuity
2 is equal to the greatest of (1), (2) and (3) below:

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 (or its successor
18 for these purposes, if applicable), and

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

23 (a) the rate of interest on thirty-year Treasury
24 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 (or its successor for
13 these purposes, if applicable),
14 divided by one and five one-hundredths (1.05).

15 d. Annuity Starting Date in Plan Years Beginning in 2004
16 or 2005:

17 (1) If the annuity starting date of the member's form
18 of benefit is in a plan year beginning in 2004 or
19 2005, 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,
24

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 (or its
11 successor for these purposes, if
12 applicable).

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

1 present value as the member's form of benefit,
2 computed using whichever of the following
3 produces the greatest annual amount:

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

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

23 (ii) the applicable mortality table
24 described in Rev. Rul. 2001-62 (or its

1 successor for these purposes, if
2 applicable), and

3 (c) (i) the rate of interest on thirty-year
4 Treasury securities as specified by the
5 Commissioner for the lookback month for
6 the stability period specified below.

7 The lookback month applicable to the
8 stability period is the fourth calendar
9 month preceding the first day of the
10 stability period, as specified below.

11 The stability period is the successive
12 period of one (1) plan year which
13 contains the annuity starting date for
14 the distribution and for which the
15 applicable interest rate remains
16 constant (as in effect on the last day
17 of the last plan year beginning before
18 January 1, 2004, under provisions of
19 the System then adopted and in effect),
20 and

21 (ii) the applicable mortality table
22 described in Rev. Rul. 2001-62 (or its
23 successor for these purposes, if
24 applicable).

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

8 D. Adjustment of Dollar Limitation for Benefit Commencement

9 Before Age Sixty-two (62) or After Age Sixty-five (65): Effective
10 for benefits commencing in limitation years ending after December
11 31, 2001, the dollar limitation under subsection B of this section
12 shall be adjusted if the annuity starting date of the member's
13 benefit is before age sixty-two (62) or after age sixty-five (65).

14 If the annuity starting date is before age sixty-two (62), the
15 dollar limitation under subsection B of this section shall be
16 adjusted under paragraph 1 of this subsection, as modified by
17 paragraph 3 of this subsection, but subject to paragraph 4 of this
18 subsection. If the annuity starting date is after age sixty-five
19 (65), the dollar limitation under subsection B of this section shall
20 be adjusted under paragraph 2 of this subsection, as modified by
21 paragraph 3 of this subsection.

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

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

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

19 (2) a five-percent interest rate assumption and the
20 applicable mortality table as described in Rev.
21 Rul. 2001-62 (or its successor for these
22 purposes, if applicable).

23 b. Limitation Years Beginning On or After July 1, 2007.
24

1 (1) System Does Not Have Immediately Commencing
2 Straight Life Annuity Payable at Both Age Sixty-
3 two (62) and the Age of Benefit Commencement.

4 (a) If the annuity starting date for the
5 member's benefit is prior to age sixty-two
6 (62) and occurs in the limitation year
7 beginning on January 1, 2008, and the System
8 does not have an immediately commencing
9 straight life annuity payable at both age
10 sixty-two (62) and the age of benefit
11 commencement, the dollar limitation for the
12 member's annuity starting date is the annual
13 amount of a benefit payable in the form of a
14 straight life annuity commencing at the
15 member's annuity starting date that is the
16 actuarial equivalent of the dollar
17 limitation under subsection B of this
18 section (adjusted under subsection C of this
19 section for years of participation less than
20 ten (10), if required) with actuarial
21 equivalence computed using a five-percent
22 interest rate assumption and the applicable
23 mortality table for the annuity starting
24 date as described in Rev. Rul. 2001-62 (or

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

5 (b) If the annuity starting date for the
6 member's benefit is prior to age sixty-two
7 (62) and occurs in a limitation year
8 beginning on or after January 1, 2009, and
9 the System does not have an immediately
10 commencing straight life annuity payable at
11 both age sixty-two (62) and the age of
12 benefit commencement, the dollar limitation
13 for the member's annuity starting date is
14 the annual amount of a benefit payable in
15 the form of a straight life annuity
16 commencing at the member's annuity starting
17 date that is the actuarial equivalent of the
18 dollar limitation under subsection B of this
19 section (adjusted under subsection C of this
20 section for years of participation less than
21 ten (10), if required) with actuarial
22 equivalence computed using a five-percent
23 interest rate assumption and the applicable
24 mortality table within the meaning of

1 Section 417(e) (3) (B) of the Internal Revenue
2 Code of 1986, as amended, as described in
3 Rev. Rul. 2007-67 (and subsequent guidance)
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
24 straight life annuity under the System at the

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

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

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

22 (1) the interest rate and the mortality table (or
23 other tabular factor) each as set forth in
24

1 subsection G of Section 50-105.4 of this title,
2 or

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

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

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

11 (a) If the annuity starting date for the
12 member's benefit is after age sixty-five
13 (65) and occurs in the limitation year
14 beginning on January 1, 2008, and the System
15 does not have an immediately commencing
16 straight life annuity payable at both age
17 sixty-five (65) and the age of benefit
18 commencement, the dollar limitation at the
19 member's annuity starting date is the annual
20 amount of a benefit payable in the form of a
21 straight life annuity commencing at the
22 member's annuity starting date that is the
23 actuarial equivalent of the dollar
24 limitation under subsection B of this

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

12 (b) If the annuity starting date for the
13 member's benefit is after age sixty-five
14 (65) and occurs in a limitation year
15 beginning on or after January 1, 2009, and
16 the System does not have an immediately
17 commencing straight life annuity payable at
18 both age sixty-five (65) and the age of
19 benefit commencement, the dollar limitation
20 at the member's annuity starting date is the
21 annual amount of a benefit payable in the
22 form of a straight life annuity commencing
23 at the member's annuity starting date that
24 is the actuarial equivalent of the dollar

1 limitation under subsection B of this
2 section (adjusted under subsection C of this
3 section for years of participation less than
4 ten (10), if required) with actuarial
5 equivalence computed using a five-percent
6 interest rate assumption and the applicable
7 mortality table within the meaning of
8 Section 417(e)(3)(B) of the Internal Revenue
9 Code of 1986, as amended, as described in
10 Rev. Rul. 2007-67 (and subsequent guidance)
11 (and expressing the member's age based on
12 completed calendar months as of the annuity
13 starting date).

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

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

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

3 1. The retirement benefits payable for a limitation year under
4 any form of benefit with respect to such member under this System
5 and under all other defined benefit plans (without regard to whether
6 a plan has been terminated) ever maintained by a participating
7 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).

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

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

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

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

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

20 H. Effective for years beginning after December 31, 1997, if a
21 member repays to the System any amounts received because of such
22 member's prior termination pursuant to subsection C of Section 50-
23 111.1 of this title, such repayment shall not be taken into account
24 for purposes of Section 415 of the Internal Revenue Code of 1986, as

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

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

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

14 K. The State Board is hereby authorized to revoke the special
15 election previously made on June 19, 1991, under Section 415(b)(10)
16 of the Internal Revenue Code of 1986, as amended.

17 SECTION 11. AMENDATORY 47 O.S. 2011, Section 2-305.4, as
18 amended by Section 4 of Enrolled Senate Bill No. 1213 of the 2nd
19 Session of the 53rd Oklahoma Legislature, is amended to read as
20 follows:

21 Section 2-305.4. A. For limitation years prior to July 1,
22 2007, the limitations of Section 415 of the Internal Revenue Code of
23 1986, as amended, shall be computed in accordance with the
24 applicable provisions of the System in effect at that time and, to

1 the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-
2 51, except as provided below. Notwithstanding any other provision
3 contained herein to the contrary, the benefits payable to a member
4 from the Oklahoma Law Enforcement Retirement System provided by
5 employer contributions (including contributions picked up by the
6 employer under Section 414(h) of the Internal Revenue Code of 1986,
7 as amended), shall be subject to the limitations of Section 415 of
8 the Internal Revenue Code of 1986, as amended, in accordance with
9 the provisions of this section. The limitations of this section
10 shall apply in limitation years beginning on or after July 1, 2007,
11 except as otherwise provided below.

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

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

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

- 19 a. survivor benefits payable to a surviving spouse under
20 a qualified joint and survivor annuity to the extent
21 such benefits would not be payable if the member's
22 benefit were paid in another form,
- 23 b. benefits that are not directly related to retirement
24 benefits (such as a qualified disability benefit,

1 preretirement incidental death benefits) and
2 postretirement medical benefits, or
3 c. the inclusion in the form of benefit of an automatic
4 benefit increase feature, provided, the form of
5 benefit is not subject to Section 417(e)(3) of the
6 Internal Revenue Code of 1986, as amended, and would
7 otherwise satisfy the limitations of this section, and
8 the System provides that the amount payable under the
9 form of benefit in any limitation year shall not
10 exceed the limits of this section applicable at the
11 annuity starting date, as increased in subsequent
12 years pursuant to Section 415(d) of the Internal
13 Revenue Code of 1986, as amended. For this purpose,
14 an automatic benefit increase feature is included in a
15 form of benefit if the form of benefit provides for
16 automatic, periodic increases to the benefits paid in
17 that form.

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

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

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

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

15 b. an annuity that decreases during the life of the
16 member merely because of:

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

21 (2) the cessation or reduction of Social Security
22 supplements or qualified disability payments (as
23 defined in Section 411(a)(9) of the Internal
24 Revenue Code of 1986, as amended).

1 c. Limitation Years Beginning Before July 1, 2007. For
2 limitation years beginning before July 1, 2007, the
3 actuarially equivalent straight life annuity is equal
4 to the annual amount of the straight life annuity
5 commencing at the same annuity starting date that has
6 the same actuarial present value as the member's form
7 of benefit computed using whichever of the following
8 produces the greater annual 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 for
12 adjusting benefits in the same form, and

13 (2) a five percent (5%) interest rate assumption and
14 the applicable mortality table described in
15 Revenue Ruling 2001-62 (or its successor for
16 these purposes, if applicable) for that annuity
17 starting date.

18 d. Limitation Year Beginning On January 1, 2008. For the
19 limitation year beginning on January 1, 2008, the
20 actuarially equivalent straight life annuity is equal
21 to the greater of:

22 (1) the annual amount of the straight life annuity,
23 if any, payable to the member under the System
24

1 commencing at the same annuity starting date as
2 the member's form of benefit, and

- 3 (2) 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 a five
7 percent (5%) interest rate assumption and the
8 applicable mortality table described in Revenue
9 Ruling 2001-62 (or its successor for these
10 purposes, if applicable) for that annuity
11 starting date.

12 e. Limitation Years Beginning On or After July 1, 2008.

13 For limitation years beginning on or after July 1,
14 2008, the actuarially equivalent straight life annuity
15 is equal to the greater of:

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

1 applicable mortality table within the meaning of
2 Section 417(e)(3)(B) of the Internal Revenue Code
3 of 1986, as amended, as described in Rev. Rul.
4 2007-67 (and subsequent guidance) for that
5 annuity starting date.

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

13 a. Annuity Starting Date on or after January 1, 2009. If
14 the annuity starting date of the member's form of
15 benefit is in the period beginning on January 1, 2009
16 through June 30, 2009, or in a plan year beginning
17 after June 30, 2009, the actuarially equivalent
18 straight life annuity is equal to the greatest of (1),
19 (2) and (3):

20 (1) the annual amount of the straight life annuity
21 commencing at the same annuity starting date that
22 has the same actuarial present value as the
23 member's form of benefit, computed using the
24 interest rate and the mortality table or other

1 tabular factor, each as set forth in the most
2 recent actuarial valuation referenced in
3 subsection H of Section 2-303.1 of this title
4 prior to September 1, 2011, and effective
5 September 1, 2011, in subsection L of this
6 section, for adjusting benefits in the same form,

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 and one-half percent (5.5%) interest rate
12 assumption and the applicable mortality table
13 within the meaning of Section 417(e) (3) (B) of the
14 Internal Revenue Code of 1986, as amended, as
15 described in Rev. Rul. 2007-67 (and subsequent
16 guidance), and

17 (3) 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:

21 (a) the adjusted first, second, and third
22 segment rates under Section 417(e) (3) (C) and
23 (D) of the Internal Revenue Code of 1986, as
24 amended, applied under rules similar to the

1 rules of Section 430(h)(2)(C) of the
2 Internal Revenue Code of 1986, as amended,
3 for the fourth calendar month preceding the
4 plan year in which falls the annuity
5 starting date for the distribution and the
6 stability period is the successive period of
7 one (1) plan year which contains the annuity
8 starting date for the distribution and for
9 which the applicable interest rate remains
10 constant, or as otherwise provided in the
11 applicable guidance if the first day of the
12 first plan year beginning after December 31,
13 2007, does not coincide with the first day
14 of the applicable stability period, and

15 (b) the applicable mortality table within the
16 meaning of Section 417(e)(3)(B) of the
17 Internal Revenue Code of 1986, as amended,
18 as described in Rev. Rul. 2007-67 (and
19 subsequent guidance),
20 divided by one and five one-hundredths
21 (1.05).

22 b. Annuity Starting Date in the Period Beginning on July
23 1, 2008 through December 31, 2008. If the annuity
24 starting date of the member's form of benefit is in

1 the period beginning on July 1, 2008 through December
2 31, 2008, the actuarially equivalent straight life
3 annuity is equal to the greatest of (1), (2) and (3)
4 below:

5 (1) the annual amount of the straight life annuity
6 commencing at the same annuity starting date that
7 has the same actuarial present value as the
8 member's form of benefit, computed using the
9 interest rate and the mortality table or other
10 tabular factor, each as set forth in subsection H
11 of Section 2-303.1 of this title for adjusting
12 benefits in the same form,

13 (2) the annual amount of the straight life annuity
14 commencing at the same annuity starting date that
15 has the same actuarial present value as the
16 member's form of benefit, computed using a five
17 and one-half percent (5.5%) interest rate
18 assumption and the applicable mortality table
19 described in Revenue Ruling 2001-62 (or its
20 successor for these purposes, if applicable), and

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

1 (a) the adjusted first, second, and third
2 segment rates under Section 417(e)(3)(C) and
3 (D) of the Internal Revenue Code of 1986, as
4 amended, applied under rules similar to the
5 rules of Section 430(h)(2)(C) of the
6 Internal Revenue Code of 1986, as amended,
7 for the fourth calendar month preceding the
8 plan year in which falls the annuity
9 starting date for the distribution and the
10 stability period is the successive period of
11 one (1) plan year which contains the annuity
12 starting date for the distribution and for
13 which the applicable interest rate remains
14 constant, or as otherwise provided in the
15 applicable guidance if the first day of the
16 first plan year beginning after December 31,
17 2007, does not coincide with the first day
18 of the applicable stability period, and
19 (b) the applicable mortality table described in
20 Revenue Ruling 2001-62 (or its successor for
21 these purposes, if applicable),
22 divided by one and five one-hundredths (1.05).

23 c. Annuity Starting Date in Plan Years Beginning in 2006
24 or 2007. If the annuity starting date of the member's

1 form of benefit is in a Plan Year beginning in 2006 or
2 2007, the actuarially equivalent straight life annuity
3 is equal to the greatest of (1), (2) and (3) below:

4 (1) the annual amount of the straight life annuity
5 commencing at the same annuity starting date that
6 has the same actuarial present value as the
7 member's form of benefit, computed using the
8 interest rate and the mortality table (or other
9 tabular factor) each as set forth in subsection H
10 of Section 2-303.1 of this title for adjusting
11 benefits in the same form,

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

20 (3) the annual amount of the straight life annuity
21 commencing at the same annuity starting date that
22 has the same actuarial present value as the
23 member's form of benefit, computed using:
24

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

17 d. Annuity Starting Date in Plan Years Beginning in 2004
18 or 2005.

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

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

4 (a) the interest rate and the mortality table or
5 other tabular factor, each as set forth in
6 subsection H of Section 2-303.1 of this
7 title for adjusting benefits in the same
8 form, and

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

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

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

5 (a) the interest rate and mortality table or
6 other tabular factor, each as set forth in
7 subsection H of Section 2-203.1 of this
8 title for adjusting benefits in the same
9 form,

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

1 ii. the applicable mortality table
2 described in Revenue Ruling 2001-62 (or
3 its successor for these purposes, if
4 applicable), and

5 (c) i. the rate of interest on thirty-year
6 Treasury securities as specified by the
7 Commissioner for the lookback month for
8 the stability period specified below.

9 The lookback month applicable to the
10 stability period is the fourth calendar
11 month preceding the first day of the
12 stability period, as specified below.

13 The stability period is the successive
14 period of one (1) plan year which
15 contains the annuity starting date for
16 the distribution and for which the
17 applicable interest rate remains

18 constant (as in effect on the last day
19 of the last plan year beginning before
20 January 1, 2004, under provisions of
21 the System then adopted and in effect),

22 and

23 ii. the applicable mortality table
24 described in Revenue Ruling 2001-62 (or

1 its successor for these purposes, if
2 applicable).

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

10 D. Adjustment of Dollar Limitation for Benefit Commencement
11 Before Sixty-two (62) Years of Age or After Sixty-five (65) Years of
12 Age: Effective for benefits commencing in limitation years ending
13 after December 31, 2001, the dollar limitation under subsection B of
14 this section shall be adjusted if the annuity starting date of the
15 member's benefit is before sixty-two (62) years of age or after
16 sixty-five (65) years of age. If the annuity starting date is
17 before sixty-two (62) years of age, the dollar limitation under
18 subsection B of this section shall be adjusted under paragraph 1 of
19 this subsection, as modified by paragraph 3 of this subsection, but
20 subject to paragraph 4 of this subsection. If the annuity starting
21 date is after sixty-five (65) years of age, the dollar limitation
22 under subsection B of this section shall be adjusted under paragraph
23 2 of this subsection, as modified by paragraph 3 of this subsection.

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

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

- 17 (1) the interest rate and the mortality table or
18 other tabular factor, each as set forth in
19 subsection H of Section 2-303.1 of this title, or
20 (2) a five percent (5%) interest rate assumption and
21 the applicable mortality table as described in
22 Revenue Ruling 2001-62 (or its successor for
23 these purposes, if applicable).

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

1 (1) System Does Not Have Immediately Commencing
2 Straight Life Annuity Payable at Both Sixty-two
3 (62) Years of Age and the Age of Benefit
4 Commencement.

5 (a) If the annuity starting date for the
6 member's benefit is prior to sixty-two (62)
7 years of age and occurs in the limitation
8 year beginning on or after January 1, 2008,
9 and the System does not have an immediately
10 commencing straight life annuity payable at
11 both sixty-two (62) years of age and the age
12 of benefit commencement, the dollar
13 limitation for the member's annuity starting
14 date is the annual amount of a benefit
15 payable in the form of a straight life
16 annuity commencing at the member's annuity
17 starting date that is the actuarial
18 equivalent of the dollar limitation under
19 subsection B of this section (adjusted under
20 subsection C of this section for years of
21 participation less than ten (10), if
22 required) with actuarial equivalence
23 computed using a five percent (5%) interest
24 rate assumption and the applicable mortality

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

7 (b) If the annuity starting date for the
8 member's benefit is prior to sixty-two (62)
9 years of age and occurs in a limitation year
10 beginning on or after January 1, 2009, and
11 the System does not have an immediately
12 commencing straight life annuity payable at
13 both sixty-two (62) years of age and the age
14 of benefit commencement, the dollar
15 limitation for the member's annuity starting
16 date is the annual amount of a benefit
17 payable in the form of a straight life
18 annuity commencing at the member's annuity
19 starting date that is the actuarial
20 equivalent of the dollar limitation under
21 subsection B of this section (adjusted under
22 subsection C of this section for years of
23 participation less than ten (10), if
24 required) with actuarial equivalence

1 computed using a five percent (5%) interest
2 rate assumption and the applicable mortality
3 table within the meaning of Section
4 417(e) (3) (B) of the Internal Revenue Code of
5 1986, as amended, as described in Rev. Rul.
6 2007-67 (and subsequent guidance) (and
7 expressing the member's age based on
8 completed calendar months as the annuity
9 starting date).

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

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

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

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

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

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

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

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

- 15 (a) If the annuity starting date for the
16 member's benefit is after sixty-five (65)
17 years of age and occurs in the limitation
18 year beginning on January 1, 2008, and the
19 System does not have an immediately
20 commencing straight life annuity payable at
21 both sixty-five (65) years of age and the
22 age of benefit commencement, the dollar
23 limitation at the member's annuity starting
24 date is the annual amount of a benefit

1 payable in the form of a straight life
2 annuity commencing at the member's annuity
3 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
8 required) with actuarial equivalence
9 computed using a five percent (5%) interest
10 rate assumption and the applicable mortality
11 table for the annuity starting date as
12 described in Revenue Ruling 2001-62 (or its
13 successor for these purposes, if applicable)
14 (and expressing the member's age based on
15 completed calendar months as of the annuity
16 starting date).

- 17 (b) If the annuity starting date for the
18 member's benefit is after sixty-five (65)
19 years of age and occurs in a limitation year
20 beginning on or after January 1, 2009, and
21 the System does not have an immediately
22 commencing straight life annuity payable at
23 both sixty-five (65) years of age and the
24 age of benefit commencement, the dollar

1 limitation for the member's annuity starting
2 date is the annual amount of a benefit
3 payable in the form of a straight life
4 annuity commencing at the member's annuity
5 starting date that is the actuarial
6 equivalent of the dollar limitation under
7 subsection B of this section (adjusted under
8 subsection C of this section for years of
9 participation less than ten (10), if
10 required) with actuarial equivalence
11 computed using a five percent (5%) interest
12 rate assumption and the applicable mortality
13 table within the meaning of Section
14 417(e) (3) (B) of the Internal Revenue Code of
15 1986, as amended, as described in Rev. Rul.
16 2007-67 (and subsequent guidance) (and
17 expressing the member's age based on
18 completed calendar months as of the annuity
19 starting date).

- 20 (2) System Has Immediately Commencing Straight Life
21 Annuity Payable at Both Sixty-five (65) Years of
22 Age and Age of Benefit Commencement. If the
23 annuity starting date for the member's benefit is
24 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
24 member, computed disregarding the member's

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

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

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

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

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

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

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

22 2. The participating employer (or a predecessor employer) has
23 not at any time maintained a defined contribution plan in which the
24 member participated (for this purpose, mandatory employee

1 contributions under a defined benefit plan, individual medical
2 accounts under Section 401(h) of the Internal Revenue Code of 1986,
3 as amended, and accounts for postretirement medical benefits
4 established under Section 419A(d)(1) of the Internal Revenue Code of
5 1986, as amended, are not considered a separate defined contribution
6 plan).

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

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

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

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

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

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

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

22 K. The Board is hereby authorized to revoke the special
23 election previously made under Section 415(b) (10) of the Internal
24 Revenue Code of 1986, as amended.

1 L. Effective September 1, 2011, the interest rate and mortality
2 assumptions for the System used to determine the actuarial
3 equivalence of a member's form of benefit shall be set by the State
4 Board in a manner that precludes employer discretion, shall be based
5 upon recommendations from independent professional advisors, and
6 shall be published annually in the actuarial valuation.

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

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