ENGROSSED SENATE
BILL NO. 1588 By: Barrington of the Senate

and

Armes of the House

An Act relating to compliance with Internal Revenue Service regulations; amending 11 O.S. 2011, Sections 49-100.7, 49-100.9, 49-106.2, 49-106.3, 49-106.4 and 49-122.3, which relate to the Oklahoma Firefighters Pension and Retirement System; authorizing the use of electronic media under certain conditions; allowing assets of the System to be invested in certain trusts; specifying value of certain distributions; 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; specifying that under certain conditions certain benefits shall be nonforfeitable; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 49-100.7, is amended to read as follows:

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

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

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

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

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

F. All decisions of the State Board as to questions of fact shall be final and conclusive on all persons except for the right of review as provided by law and except for fraud or such gross mistake of fact as to have effect equivalent to fraud.

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

H. On or after July 1, 2011, the State Board may permit, effective for applicable notices, elections and consents provided or made for a member, beneficiary, alternate payee or individual entitled to benefits under the System, the use of electronic media to provide such applicable notices and make such elections and

consents as described in Section 1.401(a)-21 of the Income Tax Regulations.

SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-100.9, is amended to read as follows:

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

1. For the exclusive purpose of:

a. providing benefits to participants and their beneficiaries, and

b. defraying reasonable expenses of administering the System;

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

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

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

B. The State Board may procure insurance indemnifying the members of the State Board from personal loss or accountability from

liability resulting from a member's action or inaction as a member of the State Board.

C. The State Board may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the State Board appointed by the chairman of the State Board. The committee shall make recommendations to the full State Board on all matters related to the choice of custodians and managers of the assets of the System, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the State Board in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the State Board nor take effect without the approval of the State Board as provided by law.

D. The Board shall retain qualified investment managers to provide for the investment of the monies of the System. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the State Board. Subject to the overall investment guidelines set by the State Board, the investment managers shall have full discretion in the management of those monies of the System allocated to the investment managers. The State Board shall manage those monies not specifically allocated to the investment managers. The monies of the System allocated to the investment managers shall be actively

managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

E. Funds and revenues for investment by the investment managers or the State Board shall be placed with a custodian selected by the State Board. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services <u>and any related custodial agreement or trust agreement is incorporated herein by reference</u>. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the State Board. In compliance with the investment policy guidelines of the State Board, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the System are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the System as to the investment of the monies of the System in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the State Board for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles. <u>Any assets of the System may be invested in a collective</u>

investment fund or group trust that satisfies the requirements of Rev. Rul. 81-100, as further amended by Rev. Rul. 2004-67, Rev. Rul. 2008-40, and Rev. Rul. 2011-1, and as subsequently amended by future guidance. Each such collective investment fund or group trust is adopted, with respect to any monies invested therein, as part of the System, its trust, and custodial account and each such declaration of trust or trust agreement and related adoption, participation, investment management, subtrust or other agreements, as amended from time to time, with respect to any monies invested therein, are incorporated by reference into the System, its trust agreement(s) or custodial agreement(s), upon approval by the State Board.

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

G. The State Board shall compile a quarterly financial report of all the funds of the System on a fiscal year basis. The report shall be compiled pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The State Board shall include in the quarterly reports all

commissions, fees or payments for investment services performed on behalf of the State Board. The report shall be distributed to the Governor, the Oklahoma State Pension Commission, the Legislative Service Bureau, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

H. After July 1 and before December 1 of each year, the State Board shall publish widely an annual report presented in simple and easily understood language pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Oklahoma State Pension Commission and the members of the System. The annual report shall cover the operation of the System during the past fiscal year, including income, disbursements, and the financial condition of the System at the end of the fiscal year. The annual report shall also contain the information issued in the quarterly reports required pursuant to subsection G of this section as well as a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over funded status, contributions and any other information deemed relevant by the State Board. The annual report shall be written in such a manner as to permit a readily understandable means for analyzing the financial condition and performance of the System for the fiscal year.

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

SECTION 3. AMENDATORY 11 O.S. 2011, Section 49-106.2, is amended to read as follows:

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

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

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

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

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

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

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

c. the inclusion in the form of ~~a~~ benefit of an automatic benefit increase feature, provided, the form of benefit is not subject to Section 417(e)(3) of the Internal Revenue Code of 1986, as amended, and would otherwise satisfy the limitations of this section, and the System provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this section applicable at the annuity starting date, as increased in subsequent

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

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

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

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

a. a nondecreasing annuity (other than a straight life annuity) payable for a period of not less than the

life of the member (or, in the case of a qualified preretirement survivor annuity, the life of the surviving spouse), or

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

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

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

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

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

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

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

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

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

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

purposes, if applicable) for that annuity starting date.

e. Limitation Years Beginning On or After July 1, 2008. For limitation years beginning on or after July 1, 2008, the actuarially equivalent straight life annuity is equal to the greater of:

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

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

6. Benefit Forms Subject to Section 417 (e)(3) of the Internal Revenue Code of 1986, as amended: The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this paragraph 6 if the form of the member's

benefit is other than a benefit form described in paragraph 5 of this subsection. In this case, the actuarially equivalent straight life annuity shall be determined as follows:

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

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

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five

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

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

(a) the adjusted first, second, and third segment rates under Section 417(e)(3)(C) and (D) of the Internal Revenue Code of 1986, as amended, applied under rules similar to the rules of Section 430(h)(2)(C) of the Internal Revenue Code of 1986, as amended, for the fourth calendar month preceding the plan year in which falls the annuity starting date for the distribution and the stability period is the successive period of one plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, or as otherwise provided in the

applicable guidance if the first day of the first plan year beginning after December 31, 2007, does not coincide with the first day of the applicable stability period, and

(b) the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance),

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

b. Annuity Starting Date in the Period Beginning on July 1, 2008 through December 31, 2008. If the annuity starting date of the member's form of benefit is in the period beginning on July 1, 2008 through December 31, 2008, the actuarially equivalent straight life annuity is equal to the greatest of (1),(2) and (3) below:

(1) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table or other tabular factor each as set forth in subsection H

of Section 49-100.9 of this title for adjusting benefits in the same form,

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

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

(a) the adjusted first, second, and third segment rates under Section 417(e)(3)(C) and (D) of the Internal Revenue Code of 1986, as amended, applied under rules similar to the rules of Section 430(h)(2)(C) of the Internal Revenue Code of 1986, as amended, for the fourth calendar month preceding the plan year in which falls the annuity starting date for the distribution and the stability period is the successive period of

one plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, or as otherwise provided in the applicable guidance if the first day of the first plan year beginning after December 31, 2007, does not coincide with the first day of the applicable stability period, and

(b) the applicable mortality table described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable),

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

~~b.~~

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

(1) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table (or other tabular factor) each as set forth in subsection H

of Section 49-100.9 of this title for adjusting benefits in the same form,

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

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

(a) the rate of interest on thirty-year Treasury securities as specified by the Commissioner for the lookback month for the stability period specified below. The lookback month applicable to the stability period is the fourth calendar month preceding the first day of the stability period, as specified below. The stability period is the successive period of one plan year which contains the annuity starting date for the

distribution and for which the applicable interest rate remains constant, and

(b) the applicable mortality table described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable),

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

~~c.~~

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

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

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

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

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

(a) the interest rate and mortality table or other tabular factor, each as set forth in subsection H of Section 49-100.9 of this

1 title for adjusting benefits in the same
2 form,
3 (b) 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 plan year which contains
13 the annuity starting date for the
14 distribution and for which the
15 applicable interest rate remains
16 constant, and
17 ii. the applicable mortality table
18 described in Revenue Ruling 2001-62 (or
19 its successor for these purposes, if
20 applicable), and
21 (c) i. the rate of interest on thirty-year
22 Treasury securities as specified by the
23 Commissioner for the lookback month for
24 the stability period specified below.

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

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

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

part thereof, in the System of the member, but never less than one (1), and the denominator of which is ten (10).

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

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

a. Limitation Years Beginning Before July 1, 2007. If the annuity starting date for the member's benefit is prior to sixty-two (62) years of age and occurs in a limitation year beginning before July 1, 2007, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the

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

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

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

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

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

(a) If the annuity starting date for the member's benefit is prior to sixty-two (62)

years of age and occurs in ~~a~~ the limitation year beginning on ~~or after July 1, 2007~~ January 1, 2008, and the System does not have an immediately commencing straight life annuity payable at both sixty-two (62) years of age and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for the annuity starting date as described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable) (and expressing the member's age based on completed calendar months as of the annuity starting date).

(b) If the annuity starting date for the member's benefit is prior to sixty-two (62) years of age and occurs in a limitation year beginning on or after January 1, 2009, and the System does not have an immediately commencing straight life annuity payable at both sixty-two (62) years of age and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance) (and

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

life annuity under the System at sixty-two (62) years of age, both determined without applying the limitations of this section.

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

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

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

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

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

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

(a) If the annuity starting date for the member's benefit is after sixty-five (65) years of age and occurs in ~~a~~ the limitation year beginning on ~~or after July 1, 2007~~ January 1, 2008, and the System does not have an immediately commencing straight life annuity payable at both sixty-five (65) years of age and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this

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

(b) If the annuity starting date for the member's benefit is after sixty-five (65) years of age and occurs in a limitation year beginning on or after January 1, 2009, and the System does not have an immediately commencing straight life annuity payable at both sixty-five (65) years of age and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial

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

(2) System Has Immediately Commencing Straight Life Annuity Payable at Both Sixty-five (65) Years of Age and Age of Benefit Commencement. If the annuity starting date for the member's benefit is after sixty-five (65) years of age and occurs in a limitation year beginning on or after July 1, 2007, and the System has an immediately commencing straight life annuity payable at both sixty-five (65) years of age and the age of benefit commencement, the dollar limitation at

the member's annuity starting date is the lesser of the limitation determined under division (1) of subparagraph b of this paragraph and the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the System at the member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the System at sixty-five (65) years of age, both determined without applying the limitations of this section. For this purpose, the adjusted immediately commencing straight life annuity under the System at the member's annuity starting date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after sixty-five (65) years of age but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the System at sixty-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4. AMENDATORY 11 O.S. 2011, Section 49-106.3, is amended to read as follows:

Section 49-106.3. A. For distributions made on or after January 1, 2002, and notwithstanding any provision of the System to the contrary that would otherwise limit a Distributee's election hereunder, a Distributee, including a nonspouse designated

beneficiary, to the extent permitted under paragraph 3 of subsection B of this section, may elect, at the time and in the manner prescribed by the State Board, to have any portion of an Eligible Rollover Distribution paid, ~~as specified by the Distributee in a Direct Rollover,~~ directly to~~:~~

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

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

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

1. "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended; and the portion of any distribution that is not includable in gross

income. ~~Effective January 1, 2002, a~~ A portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax member contributions which are not includable in gross income. However, such portion may be transferred only:

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

(1) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or

(2) in a direct trustee-to-trustee transfer, to a qualified trust which is a part of a defined contribution plan that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable, and

(b) on or after January 1, 2007:

(1) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or

(2) in a direct trustee-to-trustee transfer, to a qualified trust or an annuity contract described in Section 403(b) of the Internal Revenue Code of

1986, as amended, and such trust or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable.

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

2. "Eligible Retirement Plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1986, as amended, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986, as amended, an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986, as amended, or a qualified trust described in Section 401(a) of the Internal Revenue Code of 1986, as amended, that accepts the Distributee's Eligible Rollover Distribution. Effective

January 1, 2002, an Eligible Retirement Plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, and an eligible plan under Section 457(b) of the Internal Revenue Code of 1986, as amended, which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the System. Effective for distributions after December 31, 2007, an Eligible Retirement Plan includes a Roth IRA, subject to any limitation described in Section 408A(c) of the Internal Revenue Code of 1986, as amended;

3. "Distributee" means a member whether or not the member is an active firefighter. In addition, ~~effective June 7, 1993,~~ the member's surviving spouse and the member's spouse or former spouse who is an alternate payee under a qualified domestic order, as provided in subsection B of Section 49-126 of this title, are Distributees with regard to the interest of the spouse or former spouse. Effective for distributions after December 31, 2006, a Distributee also includes the member's nonspouse designated beneficiary, and certain trusts described in Section 402(c)(11)(B) of the Internal Revenue Code of 1986, as amended, pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended, who may elect any portion of a payment to be made in a Direct Rollover only to ~~an~~ a traditional individual retirement

account or annuity (other than an endowment contract) described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, (IRA), or effective for distributions after December 31, 2007 to a Roth IRA, that is established on behalf of such nonspouse designated beneficiary for the purpose of receiving the distribution and that will be treated as an inherited IRA pursuant to the provisions of Section 402(c)(11) of the Internal Revenue Code of 1986, as amended. Also, in this case, the determination of any required minimum distribution under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, that is ineligible for rollover shall be made in accordance with Notice 2007-7, Q&A 17 and 18, 2007-5 Internal Revenue Bulletin 395. The required minimum distribution rules of Section 401(a)(9)(B)(other than clause iv thereof) of the Internal Revenue Code of 1986, as amended, apply to the transferee IRA~~. To the extent permitted or required under the Worker, Retiree and Employer Recovery Act of 2008, Notice 2008-30, 2008-12 I.R.B. 638 and/or any other regulatory guidance, effective for plan years beginning after December 31, 2009, a nonspouse designated beneficiary (as described in and in accordance with Section 402(c)(11) of the Internal Revenue Code of 1986, as amended), may directly roll over a distribution to a Roth IRA~~; and

4. "Direct Rollover" means a payment by the System to the Eligible Retirement Plan specified by the Distributee ~~or, effective for distributions on or after January 1, 2008, to a Roth IRA under~~

~~Section 408A of the Internal Revenue Code of 1986, as amended, as specified by the Distributee, assuming the Distributee otherwise meets the Roth IRA requirements~~.

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

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

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

D. For distributions made after December 31, 2006~~,~~ but prior to July 1, 2010, a distribution with respect to a nonspouse designated beneficiary shall be made in accordance with Notice 2007-7, Q&A 15, 2007-5 Internal Revenue Bulletin 395. Effective for plan years beginning after December 31, 2009, a distribution with respect to a nonspouse designated beneficiary shall be subject to Sections

401(a)(31), 402(f) and 3405(c) of the Internal Revenue Code of 1986, as amended.

SECTION 5. AMENDATORY 11 O.S. 2011, Section 49-106.4, is amended to read as follows:

Section 49-106.4. A. An individual who has been designated, pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended, as the beneficiary of a deceased member and who is not the surviving spouse of the member, may elect, in accordance with Section 402(c)(11) of the Internal Revenue Code of 1986, as amended, to have a direct trustee-to-trustee transfer of any portion of such beneficiary's distribution from the Oklahoma Firefighters Pension and Retirement System after December 31, 2006, made only to ~~an~~ a traditional individual retirement account or individual retirement annuity (other than an endowment contract) described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended (IRA), or effective for distributions after December 31, 2007, to a Roth individual retirement account or annuity described in Section 408A of the Internal Revenue Code of 1986, as amended (Roth IRA), that is established on behalf of such designated individual for the purpose of receiving the distribution. If such transfer is made then:

1. For distributions made after December 31, 2006, but prior to July 1, 2010, the transfer is treated as an eligible rollover distribution for purposes of Section 402(c)(11) of the Internal

Revenue Code of 1986, as amended. For plan years beginning after December 31, 2009, the transfer is treated as an eligible rollover distribution;

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

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

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

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

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

SECTION 6. AMENDATORY 11 O.S. 2011, Section 49-122.3, is amended to read as follows:

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

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

The valuation of all assets of the Fund shall be both at cost and at the fair market value thereof, as determined by reference to the best available source or sources, in the opinion of the Executive Director and the State Board and both the Executive Director and State Board may rely on figures, or statements

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

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

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

Passed the Senate the 6th day of March, 2012.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2012.

_____
Presiding Officer of the House
of Representatives