

SENATE FLOOR VERSION

February 28, 2011

SENATE BILL NO. 788

By: Barrington of the Senate

and

Armes of the House

An Act relating to compliance with Internal Revenue Service regulations; amending 11 O.S. 2001, Sections 49-100.1, as last amended by Section 1, Chapter 438, O.S.L. 2010, 49-106, as last amended by Section 1, Chapter 345 O.S.L. 2007, 49-106.2, as last amended by Section 3, Chapter 438, O.S.L. 2010, 49-106.3, as last amended by Section 4, Chapter 438, O.S.L. 2010 and Section 3, Chapter 345, O.S.L. 2007, as amended by Section 5, Chapter 438, O.S.L. 2010 (11 O.S. Supp. 2010, Sections 49-100.1, 49-106, 49-106.2, 49-106.3 and 49-106.4), which relate to the Oklahoma Firefighters Pension and Retirement System; clarifying effective dates; specifying the System is treated as in compliance with certain requirements under certain conditions; updating statutory citation; clarifying applicability of certain provision; clarifying effective dates regarding certain distributions; specifying treatment of certain transfer; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 49-100.1, as last amended by Section 1, Chapter 438, O.S.L. 2010 (11 O.S. Supp. 2010, Section 49-100.1), is amended to read as follows:

Section 49-100.1. As used in this article:

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

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

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

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

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

11 6. "Member" means all eligible firefighters of a participating
12 municipality or a fire protection district who perform the essential
13 functions of fire suppression, prevention, and life safety duties in
14 a fire department. The term "member" shall include but not be
15 limited to the person serving as fire chief of any participating
16 municipality, provided that a person serving as fire chief of a
17 participating municipality shall meet the age, agility, physical and
18 other eligibility requirements required by law at the time said
19 person becomes a member of the System. Effective July 1, 1987, a
20 member does not include a "leased employee". The term "leased
21 employee" means any person (other than an employee of the recipient)
22 who pursuant to an agreement between the recipient and any other
23 person ("leasing organization") has performed services for the
24 recipient (or for the recipient and related persons determined in

1 accordance with Section 414(n) (6) of the Internal Revenue Code of
2 1986, as amended) on a substantially full-time basis for a period of
3 at least one year, and such services are performed under primary
4 direction or control by the recipient. Contributions or benefits
5 provided a leased employee by the leasing organization which are
6 attributable to services performed for the recipient employer shall
7 be treated as provided by the recipient employer. A leased employee
8 shall not be considered an employee of the recipient if the
9 requirements of the safe harbor provisions of Section 414(n) (5) of
10 the Internal Revenue Code of 1986, as amended, are satisfied.

11 Effective July 1, 1999, any individual who agrees with the
12 participating municipality that the individual's services are to be
13 performed as a leased employee or an independent contractor shall
14 not be a member regardless of any classification as a common law
15 employee by the Internal Revenue Service or any other governmental
16 agency, or any court of competent jurisdiction;

17 7. "Normal retirement date" means the date at which the member
18 is eligible to receive the unreduced payments of the member's
19 accrued retirement benefit. Such date shall be the first day
20 following the date the member completes twenty (20) years of
21 credited service. If the member's employment continues past the
22 normal retirement date of the member, the actual retirement date of
23 the member shall be the first day following the date the member
24

1 terminates employment with more than twenty (20) years of credited
2 service;

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

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

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

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

24

1 12. "Eligible employer" means any municipality with a municipal
2 fire department or a fire protection district with an organized fire
3 department;

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

7 14. "Final average salary" means the average paid gross salary
8 of the firefighter for normally scheduled hours over the highest
9 salaried thirty (30) consecutive months of the last sixty (60)
10 months of credited service. Gross salary shall not include payment
11 for accumulated sick or annual leave upon termination of employment,
12 any uniform allowances or any other compensation for reimbursement
13 of out-of-pocket expenses. Only salary on which the required
14 contributions have been made may be used in computing the final
15 average salary. Effective January 1, 1988, gross salary shall
16 include any amount of elective salary reduction under Section 125 of
17 the Internal Revenue Code of 1986, as amended. Gross salary shall
18 include any amount of elective salary reduction under Section 457 of
19 the Internal Revenue Code of 1986, as amended, and any amount of
20 nonelective salary reduction under Section 414(h) of the Internal
21 Revenue Code of 1986, as amended. Effective July 1, 1998, for
22 purposes of determining a member's compensation, any contribution by
23 the member to reduce the member's regular cash remuneration under
24 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be

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

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

23 For plan years beginning on or after July 1, 2002, any reference
24 to the annual salary limit under Section 401(a)(17) of the Internal

1 Revenue Code of 1986, as amended, shall mean the EGTRRA salary limit
2 set forth in this subsection.

3 Effective ~~January 1, 2008~~ June 9, 2010, gross salary shall also
4 include gross salary, as described above, for services, but paid by
5 the later of two and one-half (2 1/2) months after a firefighter's
6 severance from employment or the end of the calendar year that
7 includes the date the firefighter terminated employment, if it is a
8 payment that, absent a severance from employment, would have been
9 paid to the firefighter while the firefighter continued in
10 employment with the participating municipality.

11 Effective ~~January 1, 2008~~ June 9, 2010, any payments not
12 described above shall not be considered gross salary if paid after
13 severance from employment, even if they are paid by the later of two
14 and one-half (2 1/2) months after the date of severance from
15 employment or the end of the calendar year that includes the date of
16 severance from employment, except payments to an individual who does
17 not currently perform services for the participating municipality by
18 reason of qualified military service within the meaning of Section
19 414(u)(5) of the Internal Revenue Code of 1986, as amended, to the
20 extent these payments do not exceed the amounts the individual would
21 have received if the individual had continued to perform services
22 for the participating municipality rather than entering qualified
23 military service.

24

1 Effective ~~January 1, 2008~~ June 9, 2010, back pay, within the
2 meaning of Section 1.415(c)-2(g)(8) of the Income Tax Regulations,
3 shall be treated as gross salary for the ~~limitation~~ year to which
4 the back pay relates to the extent the back pay represents wages and
5 compensation that would otherwise be included in this definition.

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

9 15. "Accrued retirement benefit" means two and one-half percent
10 (2 1/2%) of the firefighter's final average salary multiplied by the
11 member's years of credited service not to exceed thirty (30) years;

12 16. "Beneficiary" means a member's surviving spouse or any
13 surviving children, including biological and adopted children, at
14 the time of the member's death. The surviving spouse must have been
15 married to the firefighter for the thirty (30) continuous months
16 preceding the firefighter's death provided a surviving spouse of a
17 member who died while in, or as a consequence of, the performance of
18 the member's duty for a participating municipality, shall not be
19 subject to the marriage limitation for survivor benefits. A
20 surviving child of a member shall be a beneficiary until reaching
21 eighteen (18) years of age or twenty-two (22) years of age if the
22 child is enrolled full time and regularly attending a public or
23 private school or any institution of higher education. Any child
24 adopted by a member after the member's retirement shall be a

1 beneficiary only if the child is adopted by the member for the
2 thirty (30) continuous months preceding the member's death. Any
3 child who is adopted by a member after the member's retirement and
4 such member dies accidentally or as a consequence of the performance
5 of the member's duty as a firefighter shall not be subject to the
6 thirty-month adoption requirement. This definition of beneficiary
7 shall be in addition to any other requirement set forth in this
8 article;

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

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

20 SECTION 2. AMENDATORY 11 O.S. 2001, Section 49-106, as
21 last amended by Section 1, Chapter 345, O.S.L. 2007 (11 O.S. Supp.
22 2010, Section 49-106), is amended to read as follows:

23 Section 49-106. A. Any firefighter who reaches the
24 firefighter's normal retirement date shall be entitled, upon written

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

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

1 provision of the System to the contrary. Effective July 1, 1989,
2 notwithstanding any other provision contained herein to the
3 contrary, in no event shall commencement of distribution of the
4 accrued retirement benefit of a member be delayed beyond April 1 of
5 the calendar year following the later of:

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

8 2. The actual retirement date of the member.

9 Effective September 8, 2009, notwithstanding anything to the
10 contrary of the System, the System, which is a governmental plan
11 (within the meaning of Section 414(d) of the Internal Revenue Code
12 of 1986, as amended) is treated as having complied with Section
13 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all
14 years to which Section 401(a)(9) of the Internal Revenue Code of
15 1986, as amended, applies to the System if the System complies with
16 a reasonable and good faith interpretation of Section 401(a)(9) of
17 the Internal Revenue Code of 1986, as amended.

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

21 D. If the requirements of Section 4 49-106.5 of this ~~act~~ title
22 are satisfied, a member who, by reason of attainment of normal
23 retirement date or age, is separated from service as a public safety
24 officer with the member's participating municipality, may elect to

1 have payment made directly to the provider for qualified health
2 insurance premiums by deduction from his or her monthly pension
3 payment, after December 31, 2006, in accordance with Section 402(1)
4 of the Internal Revenue Code of 1986, as amended.

5 SECTION 3. AMENDATORY 11 O.S. 2001, Section 49-106.2, as
6 last amended by Section 3, Chapter 438, O.S.L. 2010 (11 O.S. Supp.
7 2010, Section 49-106.2), is amended to read as follows:

8 Section 49-106.2 A. For limitation years prior to July 1,
9 2007, the limitations of Section 415 of the Internal Revenue Code of
10 1986, as amended, shall be computed in accordance with the
11 applicable provisions of the System in effect at that time and, to
12 the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-
13 51, except as provided below. Notwithstanding any other provision
14 contained herein to the contrary, the benefits payable to a member
15 from the System provided by employer contributions (including
16 contributions picked up by the employer under Section 414(h) of the
17 Internal Revenue Code of 1986, as amended) shall be subject to the
18 limitations of Section 415 of the Internal Revenue Code of 1986, as
19 amended, in accordance with the provisions of this section. The
20 limitations of this section shall apply in limitation years
21 beginning on or after July 1, 2007, except as otherwise provided
22 below.

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

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

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

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

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

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

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

14 c. the inclusion in the form of a benefit of an automatic
15 benefit increase feature, provided, the form of
16 benefit is not subject to Section 417(e)(3) of the
17 Internal Revenue Code of 1986, as amended, and would
18 otherwise satisfy the limitations of this section, and
19 the System provides that the amount payable under the
20 form of benefit in any limitation year shall not
21 exceed the limits of this section applicable at the
22 annuity starting date, as increased in subsequent
23 years pursuant to Section 415(d) of the Internal
24 Revenue Code of 1986, as amended. For this purpose,

1 an automatic benefit increase feature is included in a
2 form of benefit if the form of benefit provides for
3 automatic, periodic increases to the benefits paid in
4 that form.

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

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

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

- 21 a. a nondecreasing annuity (other than a straight life
22 annuity) payable for a period of not less than the
23 life of the member (or, in the case of a qualified
24

1 preretirement survivor annuity, the life of the
2 surviving spouse), or

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

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

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

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

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

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

6 d. Limitation Years Beginning On or After July 1, 2007.

7 For limitation years beginning on or after July 1,
8 2007, the actuarially equivalent straight life annuity
9 is equal to the greater of:

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

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

23 6. Benefit Forms Subject to Section 417 (e) (3) of the Internal
24 Revenue Code of 1986, as amended: The straight life annuity that is

1 actuarially equivalent to the member's form of benefit shall be
2 determined under this paragraph 6 if the form of the member's
3 benefit is other than a benefit form described in paragraph 5 of
4 this subsection. In this case, the actuarially equivalent straight
5 life annuity shall be determined as follows:

6 a. Annuity Starting Date in Plan Years Beginning After
7 December 31, 2007 (Plan Years beginning on or after
8 July 1, 2008). If the annuity starting date of the
9 member's form of benefit is in a plan year beginning
10 after December 31, 2007, the actuarially equivalent
11 straight life annuity is equal to the greatest of (1),
12 (2) or (3) below:

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

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

1 and one-half percent (5.5%) interest rate
2 assumption and the applicable mortality table
3 described in Revenue Ruling 2001-62 (or its
4 successor for these purposes, if applicable), and
5 (3) the annual amount of the straight life annuity
6 commencing at the same annuity starting date that
7 has the same actuarial present value as the
8 member's form of benefit, computed using:
9 (a) the adjusted first, second, and third
10 segment rates under Section 417(e)(3)(C) and
11 (D) of the Internal Revenue Code of 1986, as
12 amended, applied under rules similar to the
13 rules of Section 430(h)(2)(C) of the
14 Internal Revenue Code of 1986, as amended,
15 for the fourth calendar month preceding the
16 plan year in which falls the annuity
17 starting date for the distribution and the
18 stability period is the successive period of
19 one plan year which contains the annuity
20 starting date for the distribution and for
21 which the applicable interest rate remains
22 constant, or as otherwise provided in the
23 applicable guidance if the first day of the
24 first plan year beginning after December 31,

1 2007, does not coincide with the first day
2 of the applicable stability period, and

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

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

7 b. Annuity Starting Date in Plan Years Beginning in 2006
8 or 2007. If the annuity starting date of the member's
9 form of benefit is in a plan year beginning in 2006 or
10 2007, the actuarially equivalent straight life annuity
11 is equal to the greatest of (1), (2) or (3) below:

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

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 and one-half percent (5.5%) interest rate

1 assumption and the applicable mortality table
2 described in Revenue Ruling 2001-62 (or its
3 successor for these purposes, if applicable), and
4 (3) 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:
8 (a) the rate of interest on thirty-year Treasury
9 securities as specified by the Commissioner
10 for the lookback month for the stability
11 period specified below. The lookback month
12 applicable to the stability period is the
13 fourth calendar month preceding the first
14 day of the stability period, as specified
15 below. The stability period is the
16 successive period of one plan year which
17 contains the annuity starting date for the
18 distribution and for which the applicable
19 interest rate remains constant, and
20 (b) the applicable mortality table described in
21 Revenue Ruling 2001-62 (or its successor for
22 these purposes, if applicable),
23 divided by one and five one-hundredths (1.05).
24

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

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

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

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

22 (2) If the annuity starting date of the member's
23 benefit is on or after the first day of the first
24 plan year beginning in 2004 and before December

1 31, 2004, the application of this subparagraph b
2 shall not cause the amount payable under the
3 member's form of benefit to be less than the
4 benefit calculated under the System, taking into
5 account the limitations of this section, except
6 that the actuarially equivalent straight life
7 annuity is equal to the annual amount of the
8 straight life annuity commencing at the same
9 annuity starting date that has the same actuarial
10 present value as the member's form of benefit,
11 computed using whichever of the following
12 produces the greatest annual amount:

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

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

1 stability period, as specified below.

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

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

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

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

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

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

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

1 subsection B of this section shall be adjusted under paragraph 1 of
2 this subsection, as modified by paragraph 3 of this subsection, but
3 subject to paragraph 4 of this subsection. If the annuity starting
4 date is after sixty-five (65) years of age, the dollar limitation
5 under subsection B of this section shall be adjusted under paragraph
6 2 of this subsection, as modified by paragraph 3 of this subsection.

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

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

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

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

2 or

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

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

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

1 subsection C of this section for years of
2 participation less than ten (10), if required)
3 with actuarial equivalence computed using a five
4 percent (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 purposes, if
8 applicable) (and expressing the member's age
9 based on completed calendar months as of the
10 annuity starting date).

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

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

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

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

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 49-100.9 of this title,
6 or

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

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

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

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

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

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

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

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

19 4. Notwithstanding any other provision to the contrary, for
20 limitation years beginning on or after January 1, 1997, if payment
21 begins before the member reaches sixty-two (62) years of age, the
22 reductions in the limitations in this subsection shall not apply to
23 a member who is a "qualified participant" as defined in Section
24 415(b)(2)(H) of the Internal Revenue Code of 1986, as amended.

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

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

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

16 2. The participating municipality (or a predecessor employer)
17 has not at any time maintained a defined contribution plan in which
18 the member participated (for this purpose, mandatory employee
19 contributions under a defined benefit plan, individual medical
20 accounts under Section 401(h) of the Internal Revenue Code of 1986,
21 as amended, and accounts for postretirement medical benefits
22 established under Section 419A(d) (1) of the Internal Revenue Code of
23 1986, as amended, are not considered a separate defined contribution
24 plan).

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

11 G. 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 a result of the death of the member.

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

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

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

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

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

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

19 SECTION 4. AMENDATORY 11 O.S. 2001, Section 49-106.3, as
20 last amended by Section 4, Chapter 438, O.S.L. 2010 (11 O.S. Supp.
21 2010, Section 49-106.3), is amended to read as follows:

22 Section 49-106.3 A. For distributions made on or after January
23 1, ~~1993~~ 2002, and notwithstanding any provision of the System to the
24 contrary that would otherwise limit a Distributee's election

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

- 7 1. An Eligible Retirement Plan; or
- 8 2. Effective for distributions after December 31, 2007, a Roth
9 IRA described in Section 408A of the Internal Revenue Code of 1986,
10 as amended, subject to any limitations described in Section 408A(c)
11 of the Internal Revenue Code of 1986, as amended.

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

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

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

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

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

9 Internal Revenue Code of 1986, as amended, or

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

11 qualified trust which is a part of a defined

12 contribution plan that agrees to separately

13 account for amounts so transferred, including

14 separately accounting for the portion of such

15 distribution which is includable in gross income

16 and the portion of such distribution which is not

17 so includable, and

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

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

21 Internal Revenue Code of 1986, as amended, or

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

23 qualified trust or an annuity contract described

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

1 1986, as amended, ~~if~~ and such trust or ~~annuity~~
2 contract provides for separate accounting for
3 amounts so transferred (and earnings thereon),
4 including separately accounting for the portion
5 of such distribution which is includable in gross
6 income and the portion of such distribution which
7 is not so includable.

8 Effective for distributions after December 31, 2007,
9 such after-tax portion may also be directly
10 transferred to a Roth IRA described in Section 408A of
11 the Internal Revenue Code of 1986, as amended, subject
12 to any limitations described in Section 408A(c) of the
13 Internal Revenue Code of 1986, as amended, that agrees
14 to separately account for amounts so transferred,
15 including separately accounting for the portion of
16 such distribution which is includable in gross income
17 and the portion of such distribution which is not so
18 includable;

19 2. "Eligible Retirement Plan" means an individual retirement
20 account described in Section 408(a) of the Internal Revenue Code of
21 1986, as amended, an individual retirement annuity described in
22 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
23 annuity plan described in Section 403(a) of the Internal Revenue
24 Code of 1986, as amended, or a qualified trust described in Section

1 401(a) of the Internal Revenue Code of 1986, as amended, that
2 accepts the Distributee's Eligible Rollover Distribution. Effective
3 January 1, 2002, an Eligible Retirement Plan shall also mean an
4 annuity contract described in Section 403(b) of the Internal Revenue
5 Code of 1986, as amended, and an eligible plan under Section 457(b)
6 of the Internal Revenue Code of 1986, as amended, which is
7 maintained by a state, political subdivision of a state, or any
8 agency or instrumentality of a state or political subdivision of a
9 state and which agrees to separately account for amounts transferred
10 into such plan from the System;

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

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

20 4. "Direct Rollover" means a payment by the System to the
21 Eligible Retirement Plan specified by the Distributee or, effective
22 for distributions on or after January 1, 2008, to a Roth IRA under
23 Section 408A of the Internal Revenue Code of 1986, as amended, as
24

1 specified by the Distributee, assuming the Distributee otherwise
2 meets the Roth IRA requirements.

3 C. At least thirty (30) days before and, effective ~~January 1,~~
4 ~~2007~~ for years beginning after December 31, 2006, not more than one
5 hundred eighty (180) days before the date of distribution, the
6 Distributee (other than a nonspouse designated beneficiary prior to
7 ~~January~~ July 1, 2010) must be provided with a notice of rights which
8 satisfies Section 402(f) of the Internal Revenue Code of 1986, as
9 amended, as to rollover options and tax effects. Such distribution
10 may commence less than thirty (30) days after the notice is given,
11 provided that:

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

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

18 D. ~~Prior to January~~ For distributions made after December 31,
19 2006 but prior to July 1, 2010, a distribution with respect to a
20 nonspouse designated beneficiary shall be made in accordance with
21 Notice 2007-7, Q&A 15, 2007-5 Internal Revenue Bulletin 395.
22 Effective ~~January 1, 2010~~ for plan years beginning after December
23 31, 2009, a distribution with respect to a nonspouse designated
24

1 beneficiary shall be subject to Sections 401(a)(31), 402(f) and
2 3405(c) of the Internal Revenue Code of 1986, as amended.

3 SECTION 5. AMENDATORY Section 3, Chapter 345, O.S.L.
4 2007, as amended by Section 5, Chapter 438, O.S.L. 2010 (11 O.S.
5 Supp. 2010, Section 49-106.4), is amended to read as follows:

6 Section 49-106.4 A. An individual who has been designated,
7 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of
8 1986, as amended, as the beneficiary of a deceased member and who is
9 not the surviving spouse of the member, may elect, in accordance
10 with Section 402(c)(11) of the Internal Revenue Code of 1986, as
11 amended, ~~and at the time and in the manner prescribed by the~~
12 ~~Oklahoma Firefighters Pension and Retirement Board,~~ to have a direct
13 trustee-to-trustee transfer of any portion of such beneficiary's
14 ~~lump sum~~ distribution from the Oklahoma Firefighters Pension and
15 Retirement System after December 31, 2006, made to an individual
16 retirement account or individual retirement annuity (other than an
17 endowment contract) described in Section 408(a) or (b) of the
18 Internal Revenue Code of 1986, as amended (IRA), that is established
19 on behalf of such designated individual. If such transfer is made
20 then:

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

1 December 31, 2009, the transfer is treated as an eligible rollover
2 distribution;

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

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

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

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

24

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

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

8 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated
9 2-24-11 - DO PASS, As Coauthored.

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