

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL NO. 788

By: Barrington of the Senate

and

Armes of the House

COMMITTEE SUBSTITUTE

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; providing for retroactive effect of certain amendments; providing for noncodification; and declaring an emergency.

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

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 SECTION 1. AMENDATORY 11 O.S. 2001, Section 49-100.1, as  
2 last amended by Section 1, Chapter 438, O.S.L. 2010 (11 O.S. Supp.  
3 2010, Section 49-100.1), is amended to read as follows:

4 Section 49-100.1 As used in this article:

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

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

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

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

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

15 6. "Member" means all eligible firefighters of a participating  
16 municipality or a fire protection district who perform the essential  
17 functions of fire suppression, prevention, and life safety duties in  
18 a fire department. The term "member" shall include but not be  
19 limited to the person serving as fire chief of any participating  
20 municipality, provided that a person serving as fire chief of a  
21 participating municipality shall meet the age, agility, physical and  
22 other eligibility requirements required by law at the time said  
23 person becomes a member of the System. Effective July 1, 1987, a

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

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

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

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

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

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

6 12. "Eligible employer" means any municipality with a municipal  
7 fire department or a fire protection district with an organized fire  
8 department;

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

12 14. "Final average salary" means the average paid gross salary  
13 of the firefighter for normally scheduled hours over the highest  
14 salaried thirty (30) consecutive months of the last sixty (60)  
15 months of credited service. Gross salary shall not include payment  
16 for accumulated sick or annual leave upon termination of employment,  
17 any uniform allowances or any other compensation for reimbursement  
18 of out-of-pocket expenses. Only salary on which the required  
19 contributions have been made may be used in computing the final  
20 average salary. Effective January 1, 1988, gross salary shall  
21 include any amount of elective salary reduction under Section 125 of  
22 the Internal Revenue Code of 1986, as amended. Gross salary shall  
23 include any amount of elective salary reduction under Section 457 of  
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1 the Internal Revenue Code of 1986, as amended, and any amount of  
2 nonelective salary reduction under Section 414(h) of the Internal  
3 Revenue Code of 1986, as amended. Effective July 1, 1998, for  
4 purposes of determining a member's compensation, any contribution by  
5 the member to reduce the member's regular cash remuneration under  
6 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be  
7 treated as if the member did not make such an election. Only salary  
8 on which required contributions have been made may be used in  
9 computing final average salary.

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

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1 numerator of which is the number of months in the determination  
2 period, and the denominator of which is twelve (12). For purposes  
3 of this subsection, a "Noneligible Member" is any member who first  
4 became a member during a plan year commencing on or after July 1,  
5 1996.

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

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

18 Effective ~~January 1, 2008~~ June 9, 2010, any payments not  
19 described above shall not be considered gross salary if paid after  
20 severance from employment, even if they are paid by the later of two  
21 and one-half (2 1/2) months after the date of severance from  
22 employment or the end of the calendar year that includes the date of  
23 severance from employment, except payments to an individual who does

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

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

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

16 15. "Accrued retirement benefit" means two and one-half percent  
17 (2 1/2%) of the firefighter's final average salary multiplied by the  
18 member's years of credited service not to exceed thirty (30) years;

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

17 17. "Accumulated contributions" means the sum of all  
18 contributions made by a member to the System and includes both  
19 contributions deducted from the compensation of a member and  
20 contributions of a member picked up and paid by the participating  
21 municipality of the member. Accumulated contributions shall not  
22 include any interest on the contributions of the member, interest on  
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1 any amount contributed by the municipality or state and any amount  
2 contributed by the municipality or state; and

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

6 SECTION 2. AMENDATORY 11 O.S. 2001, Section 49-106, as  
7 last amended by Section 1, Chapter 345, O.S.L. 2007 (11 O.S. Supp.  
8 2010, Section 49-106), is amended to read as follows:

9 Section 49-106. A. Any firefighter who reaches the  
10 firefighter's normal retirement date shall be entitled, upon written  
11 request, to retire from such service and be paid from the System a  
12 monthly pension equal to the member's accrued retirement benefit;  
13 provided, that the pension shall cease during any period of time the  
14 member may thereafter serve for compensation in any municipal fire  
15 department in the state. If such a member is reemployed by a  
16 participating municipality in a position which is not covered by the  
17 System, retirement shall also include receipt by such member of in-  
18 service distributions from the System.

19 B. With respect to distributions under the System made for  
20 calendar years beginning on or after January 1, 2005, the System  
21 shall apply the minimum distribution incidental benefit  
22 requirements, incidental benefit requirements, and minimum  
23 distribution requirements of Section 401(a)(9) of the Internal

1 Revenue Code of 1986, as amended, in accordance with the final  
2 regulations under Section 401(a)(9) of the Internal Revenue Code of  
3 1986, as amended, which were issued in April 2002 and June 2004,  
4 notwithstanding any provision of the System to the contrary. With  
5 respect to distributions under the System made for calendar years  
6 beginning on or after January 1, 2001 through December 31, 2004, the  
7 System shall apply the minimum distribution requirements and  
8 incidental benefit requirements of Section 401(a)(9) of the Internal  
9 Revenue Code of 1986, as amended, in accordance with the regulations  
10 under Section 401(a)(9) of the Internal Revenue Code of 1986, as  
11 amended, which were proposed in January 2001, notwithstanding any  
12 provision of the System to the contrary. Effective July 1, 1989,  
13 notwithstanding any other provision contained herein to the  
14 contrary, in no event shall commencement of distribution of the  
15 accrued retirement benefit of a member be delayed beyond April 1 of  
16 the calendar year following the later of:

- 17 1. The calendar year in which the member reaches seventy and  
18 one-half (70 1/2) years of age; or
- 19 2. The actual retirement date of the member.

20 Effective September 8, 2009, notwithstanding anything to the  
21 contrary of the System, the System, which is a governmental plan  
22 (within the meaning of Section 414(d) of the Internal Revenue Code  
23 of 1986, as amended) is treated as having complied with Section

1 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all  
2 years to which Section 401(a)(9) of the Internal Revenue Code of  
3 1986, as amended, applies to the System if the System complies with  
4 a reasonable and good faith interpretation of Section 401(a)(9) of  
5 the Internal Revenue Code of 1986, as amended.

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

9 D. If the requirements of Section 4 49-106.5 of this ~~act~~ title  
10 are satisfied, a member who, by reason of attainment of normal  
11 retirement date or age, is separated from service as a public safety  
12 officer with the member's participating municipality, may elect to  
13 have payment made directly to the provider for qualified health  
14 insurance premiums by deduction from his or her monthly pension  
15 payment, after December 31, 2006, in accordance with Section 402(1)  
16 of the Internal Revenue Code of 1986, as amended.

17 SECTION 3. AMENDATORY 11 O.S. 2001, Section 49-106.2, as  
18 last amended by Section 3, Chapter 438, O.S.L. 2010 (11 O.S. Supp.  
19 2010, Section 49-106.2), is amended to read as follows:

20 Section 49-106.2 A. For limitation years prior to July 1,  
21 2007, the limitations of Section 415 of the Internal Revenue Code of  
22 1986, as amended, shall be computed in accordance with the  
23 applicable provisions of the System in effect at that time and, to  
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1 the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-  
2 51, except as provided below. Notwithstanding any other provision  
3 contained herein to the contrary, the benefits payable to a member  
4 from the System provided by employer contributions (including  
5 contributions picked up by the employer under Section 414(h) of the  
6 Internal Revenue Code of 1986, as amended) shall be subject to the  
7 limitations of Section 415 of the Internal Revenue Code of 1986, as  
8 amended, in accordance with the provisions of this section. The  
9 limitations of this section shall apply in limitation years  
10 beginning on or after July 1, 2007, except as otherwise provided  
11 below.

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

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1 1986, as amended, shall apply to a member who has had a ~~separation~~  
2 severance from employment.

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

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

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

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

22 3. The determination of the annual benefit shall take into  
23 account Social Security supplements described in Section 411(a)(9)

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

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

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

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

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

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

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

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

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

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

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

2 For limitation years beginning on or after July 1,  
3 2007, the actuarially equivalent straight life annuity  
4 is equal to the greater of:

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

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

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

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

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

18 (2) the annual amount of the straight life annuity  
19 commencing at the same annuity starting date that  
20 has the same actuarial present value as the  
21 member's form of benefit, computed using a five  
22 and one-half percent (5.5%) interest rate  
23 assumption and the applicable mortality table

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1 described in Revenue Ruling 2001-62 (or its  
2 successor for these purposes, if applicable), and  
3 (3) the annual amount of the straight life annuity  
4 commencing at the same annuity starting date that  
5 has the same actuarial present value as the  
6 member's form of benefit, computed using:

7 (a) the adjusted first, second, and third  
8 segment rates under Section 417(e)(3)(C) and  
9 (D) of the Internal Revenue Code of 1986, as  
10 amended, applied under rules similar to the  
11 rules of Section 430(h)(2)(C) of the  
12 Internal Revenue Code of 1986, as amended,  
13 for the fourth calendar month preceding the  
14 plan year in which falls the annuity  
15 starting date for the distribution and the  
16 stability period is the successive period of  
17 one plan year which contains the annuity  
18 starting date for the distribution and for  
19 which the applicable interest rate remains  
20 constant, or as otherwise provided in the  
21 applicable guidance if the first day of the  
22 first plan year beginning after December 31,  
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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  
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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 rate of interest on thirty-year Treasury  
10 securities as specified by the Commissioner  
11 for the lookback month for the stability  
12 period specified below. The lookback month  
13 applicable to the stability period is the  
14 fourth calendar month preceding the first  
15 day of the stability period, as specified  
16 below. The stability period is the  
17 successive period of one plan year which  
18 contains the annuity starting date for the  
19 distribution and for which the applicable  
20 interest rate remains constant, and  
21 (b) the applicable mortality table described in  
22 Revenue Ruling 2001-62 (or its successor for  
23 these purposes, if applicable),  
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1 divided by one and five one-hundredths (1.05).

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

4 (1) If the annuity starting date of the member's form  
5 of benefit is in a plan year beginning in 2004 or  
6 2005, 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 greater annual amount:

13 (a) the interest rate and the 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, and

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

1 (2) If the annuity starting date of the member's  
2 benefit is on or after the first day of the first  
3 plan year beginning in 2004 and before December  
4 31, 2004, the application of this subparagraph b  
5 shall not cause the amount payable under the  
6 member's form of benefit to be less than the  
7 benefit calculated under the System, taking into  
8 account the limitations of this section, except  
9 that the actuarially equivalent straight life  
10 annuity is equal to the annual amount of the  
11 straight life annuity commencing at the same  
12 annuity starting date that has the same actuarial  
13 present value as the member's form of benefit,  
14 computed using whichever of the following  
15 produces the greatest annual amount:

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

21 (b) i. the rate of interest on thirty-year  
22 Treasury securities as specified by the  
23 Commissioner for the lookback month for  
24

1 the stability period specified below.

2 The lookback month applicable to the  
3 stability period is the fourth calendar  
4 month preceding the first day of the  
5 stability period, as specified below.

6 The stability period is the successive  
7 period of one plan year which contains  
8 the annuity starting date for the  
9 distribution and for which the  
10 applicable interest rate remains  
11 constant, and

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

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

24

1 The stability period is the successive  
2 period of one plan year which contains  
3 the annuity starting date for the  
4 distribution and for which the  
5 applicable interest rate remains  
6 constant (as in effect on the last day  
7 of the last plan year beginning before  
8 January 1, 2004, under provisions of  
9 the System then adopted and in effect),  
10 and

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

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

22 D. Adjustment of Dollar Limitation for Benefit Commencement  
23 Before Sixty-two (62) Years of Age or After Sixty-five (65) Years of  
24

1 Age: Effective for benefits commencing in limitation years ending  
2 after December 31, 2001, the dollar limitation under subsection B of  
3 this section shall be adjusted if the annuity starting date of the  
4 member's benefit is before sixty-two (62) years of age or after  
5 sixty-five (65) years of age. If the annuity starting date is  
6 before sixty-two (62) years of age, the dollar limitation under  
7 subsection B of this section shall be adjusted under paragraph 1 of  
8 this subsection, as modified by paragraph 3 of this subsection, but  
9 subject to paragraph 4 of this subsection. If the annuity starting  
10 date is after sixty-five (65) years of age, the dollar limitation  
11 under subsection B of this section shall be adjusted under paragraph  
12 2 of this subsection, as modified by paragraph 3 of this subsection.

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

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

24

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

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

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

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

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

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

19 (2) System Has Immediately Commencing Straight Life  
20 Annuity Payable at Both Sixty-two (62) Years of  
21 Age and the Age of Benefit Commencement. If the  
22 annuity starting date for the member's benefit is  
23 prior to sixty-two (62) years of age and occurs  
24

1 in a limitation year beginning on or after July  
2 1, 2007, and the System has an immediately  
3 commencing straight life annuity payable at both  
4 sixty-two (62) years of age and the age of  
5 benefit commencement, the dollar limitation for  
6 the member's annuity starting date is the lesser  
7 of the limitation determined under division (1)  
8 of subparagraph b of this paragraph and the  
9 dollar limitation under subsection B of this  
10 section (adjusted under subsection C of this  
11 section for years of participation less than ten  
12 (10), if required) multiplied by the ratio of the  
13 annual amount of the immediately commencing  
14 straight life annuity under the System at the  
15 member's annuity starting date to the annual  
16 amount of the immediately commencing straight  
17 life annuity under the System at sixty-two (62)  
18 years of age, both determined without applying  
19 the limitations of this section.

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

- 22 a. Limitation Years Beginning Before July 1, 2007. If  
23 the annuity starting date for the member's benefit is  
24

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

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

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

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

22 (1) System Does Not Have Immediately Commencing  
 23 Straight Life Annuity Payable at Both Sixty-five

1 (65) Years of Age and the Age of Benefit  
2 Commencement. If the annuity starting date for  
3 the member's benefit is after sixty-five (65)  
4 years of age and occurs in a limitation year  
5 beginning on or after July 1, 2007, and the  
6 System does not have an immediately commencing  
7 straight life annuity payable at both sixty-five  
8 (65) years of age and the age of benefit  
9 commencement, the dollar limitation at the  
10 member's annuity starting date is the annual  
11 amount of a benefit payable in the form of a  
12 straight life annuity commencing at the member's  
13 annuity starting date that is the actuarial  
14 equivalent of the dollar limitation under  
15 subsection B of this section (adjusted under  
16 subsection C of this section for years of  
17 participation less than ten (10), if required)  
18 with actuarial equivalence computed using a five  
19 percent (5%) interest rate assumption and the  
20 applicable mortality table for the annuity  
21 starting date as described in Revenue Ruling  
22 2001-62 (or its successor for these purposes, if  
23 applicable) (and expressing the member's age

24

1 based on completed calendar months as of the  
2 annuity starting date).

- 3 (2) System Has Immediately Commencing Straight Life  
4 Annuity Payable at Both Sixty-five (65) Years of  
5 Age and Age of Benefit Commencement. If the  
6 annuity starting date for the member's benefit is  
7 after sixty-five (65) years of age and occurs in  
8 a limitation year beginning on or after July 1,  
9 2007, and the System has an immediately  
10 commencing straight life annuity payable at both  
11 sixty-five (65) years of age and the age of  
12 benefit commencement, the dollar limitation at  
13 the member's annuity starting date is the lesser  
14 of the limitation determined under division (1)  
15 of subparagraph b of this paragraph and the  
16 dollar limitation under subsection B of this  
17 section (adjusted under subsection C of this  
18 section for years of participation less than ten  
19 (10), if required) multiplied by the ratio of the  
20 annual amount of the adjusted immediately  
21 commencing straight life annuity under the System  
22 at the member's annuity starting date to the  
23 annual amount of the adjusted immediately

1 commencing straight life annuity under the System  
2 at sixty-five (65) years of age, both determined  
3 without applying the limitations of this section.  
4 For this purpose, the adjusted immediately  
5 commencing straight life annuity under the System  
6 at the member's annuity starting date is the  
7 annual amount of such annuity payable to the  
8 member, computed disregarding the member's  
9 accruals after sixty-five (65) years of age but  
10 including actuarial adjustments even if those  
11 actuarial adjustments are used to offset  
12 accruals; and the adjusted immediately commencing  
13 straight life annuity under the System at sixty-  
14 five (65) years of age is the annual amount of  
15 such annuity that would be payable under the  
16 System to a hypothetical member who is sixty-five  
17 (65) years of age and has the same accrued  
18 benefit as the member.

19 3. Notwithstanding the other requirements of this subsection,  
20 no adjustment shall be made to the dollar limitation under  
21 subsection B of this section to reflect the probability of a  
22 member's death between the annuity starting date and sixty-two (62)  
23 years of age, or between sixty-five (65) years of age and the  
24

1 annuity starting date, as applicable, if benefits are not forfeited  
2 upon the death of the member prior to the annuity starting date. To  
3 the extent benefits are forfeited upon death before the annuity  
4 starting date, such an adjustment shall be made. For this purpose,  
5 no forfeiture shall be treated as occurring upon the member's death  
6 if the System does not charge members for providing a qualified  
7 preretirement survivor annuity, as defined in Section 417(c) of the  
8 Internal Revenue Code of 1986, as amended, upon the member's death.

9 4. Notwithstanding any other provision to the contrary, for  
10 limitation years beginning on or after January 1, 1997, if payment  
11 begins before the member reaches sixty-two (62) years of age, the  
12 reductions in the limitations in this subsection shall not apply to  
13 a member who is a "qualified participant" as defined in Section  
14 415(b)(2)(H) of the Internal Revenue Code of 1986, as amended.

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

19 1. The retirement benefits payable for a limitation year under  
20 any form of benefit with respect to such member under this System  
21 and under all other defined benefit plans (without regard to whether  
22 a plan has been terminated) ever maintained by a participating  
23  
24

1 municipality do not exceed Ten Thousand Dollars (\$10,000.00)

2 multiplied by a fraction:

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

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

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

17 F. In no event shall the maximum annual accrued retirement  
18 benefit of a member allowable under this section be less than the  
19 annual amount of such accrued retirement benefit, including early  
20 pension and qualified joint and survivor annuity amounts, duly  
21 accrued by the member as of the last day of the limitation year  
22 beginning in 1982, or as of the last day of the limitation year  
23 beginning in 1986, whichever is greater, disregarding any plan

1 changes or cost-of-living adjustments occurring after July 1, 1982,  
2 as to the 1982 accrued amount, and May 5, 1986, as to the 1986  
3 accrued amount.

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

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

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

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

23

24

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

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

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

14 SECTION 4. AMENDATORY 11 O.S. 2001, Section 49-106.3, as  
 15 last amended by Section 4, Chapter 438, O.S.L. 2010 (11 O.S. Supp.  
 16 2010, Section 49-106.3), is amended to read as follows:

17 Section 49-106.3 A. For distributions made on or after January  
 18 1, ~~1993~~ 2002, and notwithstanding any provision of the System to the  
 19 contrary that would otherwise limit a Distributee's election  
 20 hereunder, a Distributee, including a nonspouse designated  
 21 beneficiary, to the extent permitted under paragraph 3 of subsection  
 22 B of this section, may elect, at the time and in the manner  
 23 prescribed by the State Board, to have any portion of an Eligible  
 24

1 Rollover Distribution paid, as specified by the Distributee in a  
2 Direct Rollover, directly to:

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

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

- 10 1. "Eligible Rollover Distribution" means any distribution of  
11 all or any portion of the balance to the credit of the Distributee,  
12 except that an Eligible Rollover Distribution does not include any  
13 distribution that is one of a series of substantially equal periodic  
14 payments (not less frequently than annually) made for the life (or  
15 life expectancy) of the Distributee or the joint lives (or life  
16 expectancies) of the Distributee and the Distributee's designated  
17 beneficiary, or for a specified period of ten (10) years or more;  
18 any distribution to the extent such distribution is required under  
19 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;  
20 and the portion of any distribution that is not includable in gross  
21 income. Effective January 1, 2002, a portion of a distribution  
22 shall not fail to be an Eligible Rollover Distribution merely  
23 because the portion consists of after-tax member contributions which  
24

1 are not includable in gross income. However, such portion may be  
2 transferred only:

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

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

6 Internal Revenue Code of 1986, as amended, or

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

9 contribution plan that agrees to separately

10 account for amounts so transferred, including

11 separately accounting for the portion of such

12 distribution which is includable in gross income

13 and the portion of such distribution which is not

14 so includable, and

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

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

18 Internal Revenue Code of 1986, as amended, or

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

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

22 1986, as amended, ~~if~~ and such trust or ~~annuity~~

23 contract provides for separate accounting for  
24

1 amounts so transferred (and earnings thereon),  
2 including separately accounting for the portion  
3 of such distribution which is includable in gross  
4 income and the portion of such distribution which  
5 is not so includable.

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

17 2. "Eligible Retirement Plan" means an individual retirement  
18 account described in Section 408(a) of the Internal Revenue Code of  
19 1986, as amended, an individual retirement annuity described in  
20 Section 408(b) of the Internal Revenue Code of 1986, as amended, an  
21 annuity plan described in Section 403(a) of the Internal Revenue  
22 Code of 1986, as amended, or a qualified trust described in Section  
23 401(a) of the Internal Revenue Code of 1986, as amended, that

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

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

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

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  
 22 prior to July 1, 2010, the transfer is treated as an eligible  
 23 rollover distribution for purposes of Section 402(c)(11) of the

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

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

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

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

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

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

7 SECTION 6. NEW LAW A new section of law not to be  
8 codified in the Oklahoma Statutes reads as follows:

9 With respect to the amendments in paragraph 14 of Section 49-  
10 100.1 of Title 11 of the Oklahoma Statutes contained in Section 1 of  
11 this act, the substitution of June 9, 2010, for January 1, 2008, as  
12 the effective date, shall be considered retroactive to June 9, 2010.

13 SECTION 7. NEW LAW A new section of law not to be  
14 codified in the Oklahoma Statutes reads as follows:

15 With respect to the amendment in paragraph 14 of Section 49-  
16 100.1 of Title 11 of the Oklahoma Statutes contained in Section 1 of  
17 this act, the word "limitation" shall be considered to have been  
18 deleted as of June 9, 2010.

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

23 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM AND  
24 FINANCIAL SERVICES, dated 04-14-2011 - DO PASS, As Amended.