

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

SENATE BILL 577

By: Brown

AS INTRODUCED

An Act relating to compliance with Internal Revenue Service regulations; amending 11 O.S. 2001, Sections 50-114, as last amended by Section 3, Chapter 437, O.S.L. 2010, 50-114.1, as last amended by Section 4, Chapter 437, O.S.L. 2010, 50-114.2, as last amended by Section 5, Chapter 437, O.S.L. 2010, and Section 4, Chapter 152, O.S.L. 2007, as last amended by Section 6, Chapter 437, O.S.L. 2010 (11 O.S. Supp. 2010, Sections 50-114, 50-114.1, 50-114.2 and 50-114.3), which relate to the Oklahoma Police Pension and Retirement System; specifying the System is treated as in compliance with certain requirements under certain conditions; updating statutory citation; modifying date regarding certain distributions; clarifying who is a distributee for certain distributions; allowing certain beneficiaries to make a direct rollover to a Roth IRA; clarifying effective dates regarding certain distributions; clarifying treatment of certain transfers; allowing certain beneficiaries to elect to make 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 50-114, as last amended by Section 3, Chapter 437, O.S.L. 2010 (11 O.S. Supp. 2010, Section 50-114), is amended to read as follows:

1 Section 50-114. A. The State Board is hereby authorized to pay
2 out of funds in the System a monthly service pension to any member
3 eligible as hereinafter provided, not exceeding in any event the
4 amount of money in such funds and not exceeding in any event the
5 accrued retirement benefit for such member, except as provided for
6 herein. In order for a member to be eligible for such service
7 pension the following requirements must be complied with:

8 1. The member's service with the police department for any
9 participating municipality must have ceased; however, a member may
10 be subsequently reemployed in the position of police chief pursuant
11 to subsection C of Section 50-112 of this title;

12 2. The member must have reached the member's normal retirement
13 date; and

14 3. The member must have complied with any agreement as to
15 contributions by the member and other members to any funds of the
16 System where said agreement has been made as provided by this
17 article; provided, that should a retired member receive disability
18 benefits as provided in this and other sections of this article, the
19 time the retired member is receiving said disability benefits shall
20 count as time on active service if the retired member should be
21 recalled by the Chief of Police from said disability retirement. It
22 shall be necessary before said time shall be counted toward
23 retirement that the retired member make the same contribution as the
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1 member would have otherwise made if on active service for the time
2 the retired member was disabled.

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

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

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

15 2. The actual retirement date of the member.

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

1 the minimum distribution incidental benefit requirements, incidental
2 benefit requirements, and minimum distribution requirements of
3 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
4 in accordance with the final regulations under Section 401(a)(9) of
5 the Internal Revenue Code of 1986, as amended, which were issued in
6 April 2002 and June 2004, notwithstanding any provision of the
7 System to the contrary. Effective January 1, 2009, with respect to
8 the Oklahoma Police Deferred Option Plan, to the extent applicable,
9 no minimum distribution is required for 2009 in accordance with
10 Section 401(a)(9)(H) of the Internal Revenue Code of 1986, as
11 amended.

12 Effective September 8, 2009, notwithstanding anything to the
13 contrary of the System, the System, which is a governmental plan
14 (within the meaning of Section 414(d) of the Internal Revenue Code
15 of 1986, as amended) is treated as having complied with Section
16 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all
17 years to which Section 401(a)(9) of the Internal Revenue Code of
18 1986, as amended, applies to the system if the System complies with
19 a reasonable and good faith interpretation of Section 401(a)(9) of
20 the Internal Revenue Code of 1986, as amended.

21 D. In the event of the death of any member who has been awarded
22 a retirement benefit or is eligible therefor as provided in this
23 section, such member's beneficiaries shall be paid such retirement
24 benefit. The remaining portion of the member's retirement benefit

1 shall be distributed to the beneficiaries at least as rapidly as
2 under the method of distribution to the member. Effective March 1,
3 1997, if a member to whom a retirement benefit has been awarded or
4 who is eligible therefor dies prior to the date as of which the
5 total amount of retirement benefit paid equals the total amount of
6 the employee contributions paid by or on behalf of the member and
7 the member does not have a surviving beneficiary, the total benefits
8 paid as of the date of the member's death shall be subtracted from
9 the accumulated employee contribution amount and the balance, if
10 greater than zero (0), shall be paid to the member's estate.

11 E. The State Board may review and affirm a member's request for
12 retirement benefits prior to the member's normal retirement date
13 provided that no retirement benefits are paid prior to the normal
14 retirement date.

15 F. A member retired under the provisions of this article may
16 apply to the State Board to have the member's retirement benefits
17 set aside and may make application for disability benefits. Upon
18 approval of the disability benefits, the member would become subject
19 to all provisions of this article pertaining to disability
20 retirement.

21 G. Upon the death of a retired member or a beneficiary, the
22 benefit payment for the month in which the retired member or
23 beneficiary died, if not previously paid, shall be made to the
24 beneficiary of the member or to the member's or beneficiary's estate

1 if there is no beneficiary. Such benefit payment shall be made in
2 an amount equal to a full monthly benefit payment regardless of the
3 day of the month in which the retired member or beneficiary died.

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

12 SECTION 2. AMENDATORY 11 O.S. 2001, Section 50-114.1, as
13 last amended by Section 4, Chapter 437, O.S.L. 2010 (11 O.S. Supp.
14 2010, Section 50-114.1), is amended to read as follows:

15 Section 50-114.1. A. For limitation years prior to July 1,
16 2007, the limitations of Section 415 of the Internal Revenue Code of
17 1986, as amended, shall be computed in accordance with the
18 applicable provisions of the System in effect at that time and, to
19 the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-
20 51, except as provided below. Notwithstanding any other provision
21 contained herein to the contrary, the benefits payable to a member
22 from the System provided by employer contributions (including
23 contributions picked up by the employer under Section 414(h) of the
24 Internal Revenue Code of 1986, as amended) shall be subject to the

1 limitations of Section 415 of the Internal Revenue Code of 1986, as
2 amended, in accordance with the provisions of this section. The
3 limitations of this section shall apply in limitation years
4 beginning on or after July 1, 2007, except as otherwise provided
5 below.

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

19 1. The member's annual benefit is a benefit that is payable
20 annually in the form of a straight life annuity. Except as provided
21 below, where a benefit is payable in a form other than a straight
22 life annuity, the benefit shall be adjusted to an actuarially
23 equivalent straight life annuity that begins at the same time as such
24 other form of benefit and is payable on the first day of each month,

1 before applying the limitations of this section. For a member who
2 has or will have distributions commencing at more than one annuity
3 starting date, the annual benefit shall be determined as of each such
4 annuity starting date (and shall satisfy the limitations of this
5 section as of each such date), actuarially adjusting for past and
6 future distributions of benefits commencing at the other annuity
7 starting dates. For this purpose, the determination of whether a new
8 starting date has occurred shall be made without regard to Section
9 1.401(a)-20, Q&A 10(d), and with regard to Section 1.415(b)-
10 1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.

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

1 provides that the amount payable under the form of
2 benefit in any limitation year shall not exceed the
3 limits of this section applicable at the annuity
4 starting date, as increased in subsequent years
5 pursuant to Section 415(d) of the Internal Revenue Code
6 of 1986, as amended. For this purpose, an automatic
7 benefit increase feature is included in a form of
8 benefit if the form of benefit provides for automatic,
9 periodic increases to the benefits paid in that form.

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

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

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

3 a. a nondecreasing annuity (other than a straight life
4 annuity) payable for a period of not less than the life
5 of the member (or, in the case of a qualified
6 preretirement survivor annuity, the life of the
7 surviving spouse), or

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

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

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

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

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

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

12 For limitation years beginning on or after July 1,
13 2007, the actuarially equivalent straight life annuity
14 is equal to the greater of:

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

1 2001-62 (or its successor for these purposes, if
2 applicable) for that annuity starting date.

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

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

17 (1) the annual amount of the straight life annuity
18 commencing at the same annuity starting date that
19 has the same actuarial present value as the
20 member's form of benefit, computed using the
21 interest rate and the mortality table (or other
22 tabular factor) each as set forth in subsection G
23 of Section 50-105.4 of this title for adjusting
24 benefits in the same form,

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

1 interest rate remains constant, or as
2 otherwise provided in the applicable guidance
3 if the first day of the first plan year
4 beginning after December 31, 2007, does not
5 coincide with the first day of the applicable
6 stability period, and

7 (b) the applicable mortality table described in
8 Rev. Rul. 2001-62 (or its successor for these
9 purposes, if applicable),

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

11 b. Annuity Starting Date in Plan Years Beginning in 2006
12 or 2007. If the annuity starting date of the member's
13 form of benefit is in a Plan Year beginning in 2006 or
14 2007, the actuarially equivalent straight life annuity
15 is equal to the greatest of (1), (2) or (3) below:

16 (1) the annual amount of the straight life annuity
17 commencing at the same annuity starting date that
18 has the same actuarial present value as the
19 member's form of benefit, computed using the
20 interest rate and the mortality table (or other
21 tabular factor) each as set forth in subsection G
22 of Section 50-105.4 of this title for adjusting
23 benefits in the same form,

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- 1 (2) the annual amount of the straight life annuity
2 commencing at the same annuity starting date that
3 has the same actuarial present value as the
4 member's form of benefit, computed using a five
5 and one-half percent (5.5%) interest rate
6 assumption and the applicable mortality table
7 described in Rev. Rul. 2001-62 (or its successor
8 for these purposes, if applicable), and
- 9 (3) 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:
- 13 (a) the rate of interest on thirty-year Treasury
14 securities as specified by the Commissioner
15 for the lookback month for the stability
16 period specified below. The lookback month
17 applicable to the stability period is the
18 fourth calendar month preceding the first day
19 of the stability period, as specified below.
20 The stability period is the successive period
21 of one (1) plan year which contains the
22 annuity starting date for the distribution
23 and for which the applicable interest rate
24 remains constant, and

1 (b) the applicable mortality table described in
2 Rev. Rul. 2001-62 (or its successor for these
3 purposes, if applicable),
4 divided by one and five one-hundredths (1.05).

5 c. Annuity Starting Date in Plan Years Beginning in 2004
6 or 2005:

7 (1) If the annuity starting date of the member's form
8 of benefit is in a plan year beginning in 2004 or
9 2005, 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 produces
15 the greater annual amount:

16 (a) the interest rate and the mortality table (or
17 other tabular factor) each as set forth in
18 subsection G of Section 50-105.4 of this
19 title for adjusting benefits in the same
20 form, and

21 (b) a five and one-half percent (5.5%) interest
22 rate assumption and the applicable mortality
23 table described in Rev. Rul. 2001-62 (or its
24 successor for these purposes, if 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 produces
15 the greatest annual amount:

16 (a) the interest rate and mortality table (or
17 other tabular factor) each as set forth in
18 subsection G of Section 50-105.4 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 the stability period specified below.

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

5 The stability period is the successive
6 period of one (1) plan year which
7 contains the annuity starting date for
8 the distribution and for which the
9 applicable interest rate remains
10 constant, and

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

14 (c) (i) the rate of interest on thirty-year
15 Treasury securities as specified by the
16 Commissioner for the lookback month for
17 the stability period specified below.

18 The lookback month applicable to the
19 stability period is the fourth calendar
20 month preceding the first day of the
21 stability period, as specified below.

22 The stability period is the successive
23 period of one (1) plan year which
24 contains the annuity starting date for

1 the distribution and for which the
2 applicable interest rate remains
3 constant (as in effect on the last day
4 of the last plan year beginning before
5 January 1, 2004, under provisions of the
6 System then adopted and in effect), and

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

10 C. If a member has less than ten (10) years of participation in
11 the System and all predecessor municipal police 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 Age Sixty-two (62) or After Age Sixty-five (65): Effective
19 for benefits commencing in limitation years ending after December 31,
20 2001, the dollar limitation under subsection B of this section shall
21 be adjusted if the annuity starting date of the member's benefit is
22 before age sixty-two (62) or after age sixty-five (65). If the
23 annuity starting date is before age sixty-two (62), the dollar
24 limitation under subsection B of this section shall be adjusted under

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (1) System Does Not Have Immediately Commencing
7 Straight Life Annuity Payable at Both Age Sixty-
8 five (65) and the Age of Benefit Commencement. If
9 the annuity starting date for the member's benefit
10 is after age sixty-five (65) and occurs in a
11 limitation year beginning on or after July 1,
12 2007, and the System does not have an immediately
13 commencing straight life annuity payable at both
14 age sixty-five (65) and the age of benefit
15 commencement, the dollar limitation at the
16 member's annuity starting date is the annual
17 amount of a benefit payable in the form of a
18 straight life annuity commencing at the member's
19 annuity starting date that is the actuarial
20 equivalent of the dollar limitation under
21 subsection B of this section (adjusted under
22 subsection C of this section for years of
23 participation less than ten (10), if required)
24 with actuarial equivalence computed using a five-

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

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

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

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

1 age sixty-five (65) and the annuity starting date, as applicable, if
2 benefits are not forfeited upon the death of the member prior to the
3 annuity starting date. To the extent benefits are forfeited upon
4 death before the annuity starting date, such an adjustment shall be
5 made. For this purpose, no forfeiture shall be treated as occurring
6 upon the member's death if the System does not charge members for
7 providing a qualified preretirement survivor annuity, as defined in
8 Section 417(c) of the Internal Revenue Code of 1986, as amended, upon
9 the member's death.

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

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

20 1. The retirement benefits payable for a limitation year under
21 any form of benefit with respect to such member under this System and
22 under all other defined benefit plans (without regard to whether a
23 plan has been terminated) ever maintained by a participating
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
24 changes or cost-of-living adjustments occurring after July 1, 1982,

1 as to the 1982 accrued amount, and May 5, 1986, as to the 1986
2 accrued amount.

3 G. Effective for years beginning after December 31, 1997, if a
4 member purchases service pursuant to Section 50-111.2 and Section
5 50-111.4 of this title, which qualifies as "permissive service
6 credit" pursuant to Section 415(n) of the Internal Revenue Code of
7 1986, as amended, the limitations of Section 415 of the Internal
8 Revenue Code of 1986, as amended, may be met by either:

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

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

14 H. Effective for years beginning after December 31, 1997, if a
15 member repays to the System any amounts received because of such
16 member's prior termination pursuant to subsection C of Section 50-
17 111.1 of this title, such repayment shall not be taken into account
18 for purposes of Section 415 of the Internal Revenue Code of 1986, as
19 amended, pursuant to Section 415(k)(3) of the Internal Revenue Code
20 of 1986, as amended.

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

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

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

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

11 SECTION 3. AMENDATORY 11 O.S. 2001, Section 50-114.2, as
 12 last amended by Section 5, Chapter 437, O.S.L. 2010 (11 O.S. Supp.
 13 2010, Section 50-114.2), is amended to read as follows:

14 Section 50-114.2. A. This section applies to distributions
 15 made on or after January 1, ~~1993~~ 2002. Notwithstanding any
 16 provision of the System to the contrary that would otherwise limit a
 17 Distributee's election hereunder, a Distributee, including a
 18 nonspouse designated beneficiary, to the extent permitted under
 19 paragraph 3 of subsection B of this section, may elect, at the time
 20 and in the manner prescribed by the State Board, to have any portion
 21 of an Eligible Rollover Distribution paid directly to:

- 22 1. An Eligible Retirement Plan; or
- 23 2. Effective for distributions after December 31, 2007, a Roth
- 24 IRA described in Section 408A of the Internal Revenue Code of 1986,

1 as amended, subject to any limitations described in Section
2 408A(c) of the Internal Revenue Code of 1986, as amended;
3 specified by the Distributee in a Direct Rollover.

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

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

22 a. from January 1, 2002, through December 31, 2006:
23
24

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

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

12 b. on or after January 1, 2007:

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

16 (2) in a direct trustee-to-trustee transfer, to a
17 qualified trust or an annuity contract described
18 in Section 403(b) of the Internal Revenue Code of
19 1986, as amended, ~~if~~ and such trust or ~~annuity~~
20 contract provides for separate accounting for
21 amounts so transferred (and earnings thereon),
22 including separately accounting for the portion
23 of such distribution which is includable in gross
24

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

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

12 Notwithstanding the foregoing, effective January 1, 2009, to the
13 extent applicable, if all or a portion of a distribution from the
14 Oklahoma Police Deferred Option Plan during 2009 is treated as an
15 Eligible Rollover Distribution pursuant to Section 402(c)(4) of the
16 Internal Revenue Code of 1986, as amended, but would not be so
17 treated if the minimum distribution requirements under Section
18 401(a)(9) of the Internal Revenue Code of 1986, as amended, had
19 applied during 2009, such distribution shall not be treated as an
20 Eligible Rollover Distribution for purposes of Section 401(a)(31),
21 Section 3405(c) or Section 402(f) of the Internal Revenue Code of
22 1986, as amended;

23 2. "Eligible Retirement Plan" means an individual retirement
24 account described in Section 408(a) of the Internal Revenue Code of

1 1986, as amended, an individual retirement annuity described in
2 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
3 annuity plan described in Section 403(a) of the Internal Revenue
4 Code of 1986, as amended, or a qualified trust described in Section
5 401(a) of the Internal Revenue Code of 1986, as amended, that
6 accepts the Distributee's Eligible Rollover Distribution. Effective
7 January 1, 2002, an Eligible Retirement Plan shall also mean an
8 annuity contract described in Section 403(b) of the Internal Revenue
9 Code of 1986, as amended, and an eligible plan under Section 457(b)
10 of the Internal Revenue Code of 1986, as amended, which is
11 maintained by a state, political subdivision of a state, or any
12 agency or instrumentality of a state or political subdivision of a
13 state and which agrees to separately account for amounts transferred
14 into such plan from the System;

15 3. "Distributee" means an employee or former employee. In
16 addition, effective June 7, 1993, the employee's or former
17 employee's surviving spouse and the employee's or former employee's
18 spouse or former spouse who is the alternate payee under a qualified
19 domestic order, as defined in subsection B of Section 50-124 of this
20 title, are Distributees with regard to the interest of the spouse or
21 the former spouse. Effective for distributions after December 31,
22 2006, a Distributee also includes the member's nonspouse designated
23 beneficiary (and certain trusts described in Section 402(c)(11)(B)
24 of the Internal Revenue Code of 1986, as amended), pursuant to

1 Section 401(a)(9)(E) of the Internal Revenue Code of 1986, as
2 amended, who may ~~only~~ elect any portion of a payment to be made in a
3 Direct Rollover ~~(to the extent such Distributee does not receive a~~
4 ~~lump sum payment)~~ to an individual retirement account or annuity
5 (other than an endowment contract) described in Section 408(a) or
6 (b) of the Internal Revenue Code of 1986, as amended, (IRA), that is
7 established on behalf of such designated beneficiary and that will
8 be treated as an inherited IRA pursuant to the provisions of Section
9 402(c)(11) of the Internal Revenue Code of 1986, as amended. Also,
10 in this case, the determination of any required minimum distribution
11 under Section 401(a)(9) of the Internal Revenue Code of 1986, as
12 amended, that is ineligible for rollover shall be made in accordance
13 with Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395. The required
14 minimum distribution rules of Section 401(a)(9)(B) (other than
15 clause iv thereof) of the Internal Revenue Code of 1986, as amended,
16 apply to the transferee IRA. Furthermore, to the extent permitted
17 or required under the Worker, Retiree, and Employer Recovery Act of
18 2008, Notice 2008-30, 2008-12 I.R.B. 638 and/or any other regulatory
19 guidance, effective for plan years beginning after December 31,
20 2009, a nonspouse designated beneficiary (as described in and in
21 accordance with Section 402(c)(11) of the Internal Revenue Code of
22 1986, as amended), may directly roll over a distribution to a Roth
23 IRA; and
24

1 4. "Direct Rollover" means a payment by the System to the
2 Eligible Retirement Plan specified by the Distributee or, effective
3 for distributions on or after January 1, 2008, to a Roth IRA under
4 Section 408A of the Internal Revenue Code of 1986, as amended, as
5 specified by the Distributee (assuming the Distributee otherwise
6 meets the Roth IRA requirements).

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

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

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

22 D. ~~Prior~~ For distributions made after December 31, 2006, but
23 prior to ~~January~~ July 1, 2010, a distribution with respect to a
24 nonspouse designated beneficiary shall be made in accordance with

1 Notice 2007-7, Q&A 15, 2007-5 Internal Revenue Bulletin 395.
2 Effective ~~January 1, 2010~~ for plan years beginning after December
3 31, 2009, a distribution with respect to a nonspouse designated
4 beneficiary shall be subject to Sections 401(a)(31), 402(f), and
5 3405(c) of the Internal Revenue Code of 1986, as amended.

6 SECTION 4. AMENDATORY Section 4, Chapter 152, O.S.L.
7 2007, as last amended by Section 6, Chapter 437, O.S.L. 2010 (11
8 O.S. Supp. 2010, Section 50-114.3), is amended to read as follows:

9 Section 50-114.3 A. An individual who has been designated,
10 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of
11 1986, as amended, as the beneficiary of a deceased member and who is
12 not the surviving spouse of the member, may elect, in accordance
13 with Section 402(c)(11) of the Internal Revenue Code of 1986, as
14 amended, ~~and at the time and in the manner prescribed by the State~~
15 ~~Board~~, to have a direct trustee-to-trustee transfer of any portion
16 of such beneficiary's ~~lump-sum~~ distribution from the System after
17 December 31, 2006, made to an individual retirement account or
18 individual retirement annuity (other than an endowment contract)
19 described in Section 408(a) or (b) of the Internal Revenue Code of
20 1986, as amended (IRA), that is established on behalf of such
21 designated individual. If such transfer is made, then:

22 1. ~~The~~ For distributions made after December 31, 2006, but
23 prior to July 1, 2010, the transfer is treated as an eligible
24 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 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 State Board shall promulgate such rules as are necessary
2 to implement the provisions of this section.

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

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