

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

SENATE BILL 584

By: Brown

AS INTRODUCED

An Act relating to compliance with Internal Revenue Service regulations; amending 47 O.S. Sections 2-300, as last amended by Section 8, Chapter 437, O.S.L. 2010, 2-305.1A, as last amended by Section 9, Chapter 437, O.S.L. 2010, Section 9, Chapter 152, O.S.L. 2007, as last amended by Section 10, Chapter 437, O.S.L. 2010 and 2-305.4, as last amended by Section 12, Chapter 437, O.S.L. 2010 (47 O.S. Supp. 2010, Sections 2-300, 2-305.1A, 2-305.1B and 2-305.4), which relate to the Oklahoma Law Enforcement Retirement System; modifying definition; 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; updating statutory citation; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 2-300, as last amended by Section 8, Chapter 437, O.S.L. 2010 (47 O.S. Supp. 2010, Section 2-300), is amended to read as follows:

Section 2-300. As used in Section 2-300 et seq. of this title:

1 1. "System" means the Oklahoma Law Enforcement Retirement
2 System;

3 2. "Act" means Section 2-300 et seq. of this title;

4 3. "Board" means the Oklahoma Law Enforcement Retirement Board
5 of the System;

6 4. "Executive Director" means the managing officer of the
7 System employed by the Board;

8 5. "Fund" means the Oklahoma Law Enforcement Retirement Fund;

9 6. a. "Member" means:

10 (1) all commissioned law enforcement officers of the
11 Oklahoma Highway Patrol Division of the
12 Department of Public Safety who have obtained
13 certification from the Council on Law Enforcement
14 Education and Training, and all cadets of a
15 Patrol Academy of the Department of Public
16 Safety,

17 (2) law enforcement officers and criminalists of the
18 Oklahoma State Bureau of Investigation,

19 (3) law enforcement officers of the Oklahoma State
20 Bureau of Narcotics and Dangerous Drugs Control
21 designated to perform duties in the investigation
22 and prevention of crime and the enforcement of
23 the criminal laws of this state,
24

- 1 (4) law enforcement officers of the Oklahoma
2 Alcoholic Beverage Laws Enforcement Commission
3 designated to perform duties in the investigation
4 and prevention of crime and the enforcement of
5 the criminal laws of this state,
- 6 (5) employees of the Communications Section of the
7 Oklahoma Highway Patrol Division, radio
8 technicians, and tower technicians of the
9 Department of Public Safety, who are employed in
10 any such capacity as of June 30, 2008, and who
11 remain employed on or after July 1, 2008, until a
12 termination of service, or until a termination of
13 service with an election of a vested benefit from
14 the System, or until retirement. Effective July
15 1, 2008, a person employed for the first time as
16 an employee of the Department of Public Safety in
17 the Communications Division as an information
18 systems telecommunication technician of the
19 Department of Public Safety shall not be a member
20 of the System,
- 21 (6) park rangers of the Oklahoma Tourism and
22 Recreation Department and any park manager or
23 park supervisor of the Oklahoma Tourism and
24 Recreation Department who was employed in such a

1 position prior to July 1, 1985, and who elects on
2 or before September 1, 1996, to participate in
3 the System, and

4 (7) inspectors of the Board of Pharmacy.

- 5 b. Effective July 1, 1987, a member does not include a
6 "leased employee" as defined under Section 414(n)(2) of
7 the Internal Revenue Code of 1986, as amended.
8 Effective July 1, 1999, any individual who agrees with
9 the participating employer that the individual's
10 services are to be performed as a leased employee or
11 an independent contractor shall not be a member
12 regardless of any classification as a common-law
13 employee by the Internal Revenue Service or any other
14 governmental agency, or any court of competent
15 jurisdiction.

- 16 c. All persons who shall be offered a position of a
17 commissioned law enforcement officer as an employee of
18 one of the agencies described in subparagraph a of
19 this paragraph shall participate in the System upon
20 the person meeting the requisite post-offer-pre-
21 employment physical examination standards which shall
22 be subject to the following requirements:

23 (1) all such persons shall be of good moral
24 character, free from deformities, mental or

1 physical conditions, or disease and alcohol or
2 drug addiction which would prohibit the person
3 from performing the duties of a law enforcement
4 officer,

5 (2) ~~said~~ the physical-medical examination shall
6 pertain to age, sight, hearing, agility and other
7 conditions the requirements of which shall be
8 established by the Board,

9 (3) the person shall be required to meet the
10 conditions of this subsection prior to the
11 beginning of actual employment but after an offer
12 of employment has been tendered by a
13 participating employer,

14 (4) the Board shall have authority to deny or revoke
15 membership of any person submitting false
16 information in such person's membership
17 application, and

18 (5) the Board shall have final authority in
19 determining eligibility for membership in the
20 System, pursuant to the provisions of this
21 subsection;

22 7. "Normal retirement date" means the date at which the member
23 is eligible to receive the unreduced payments of the member's
24

1 accrued retirement benefit. Such date shall be the first day of the
2 month coinciding with or following the date the member:

3 a. completes twenty (20) years of vesting service, or

4 b. attains sixty-two (62) years of age with ten (10)
5 years of vesting service, or

6 c. attains sixty-two (62) years of age, if:

7 (1) the member has been transferred to this System
8 from the Oklahoma Public Employees Retirement
9 System on or after July 1, 1981, and

10 (2) the member would have been vested had the member
11 continued to be a member of the Oklahoma Public
12 Employees Retirement System.

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

1 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
2 in accordance with the regulations under Section 401(a)(9) of the
3 Internal Revenue Code of 1986, as amended, which were proposed in
4 January 2001, notwithstanding any provision of the System to the
5 contrary.

6 Effective July 1, 1989, notwithstanding any other provision
7 contained herein to the contrary, in no event shall commencement of
8 distribution of the accrued retirement benefit of a member be
9 delayed beyond April 1 of the calendar year following the later of:
10 (1) the calendar year in which the member reaches seventy and one-
11 half (70 1/2) years of age; or (2) the actual retirement date of the
12 member. The preceding sentence does not allow deferral of benefit
13 commencement beyond the age of sixty-five (65).

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

23 A member who was required to join the System effective July 1,
24 1980, because of the transfer of the employing agency from the

1 Oklahoma Public Employees Retirement System to the System, and was
2 not a member of the Oklahoma Public Employees Retirement System on
3 the date of such transfer shall be allowed to receive credit for
4 prior law enforcement service rendered to this state, if the member
5 is not receiving or eligible to receive retirement credit or
6 benefits for such service in any other public retirement system,
7 upon payment to the System of the employee contribution the member
8 would have been subject to had the member been a member of the
9 System at the time, plus five percent (5%) interest. Service credit
10 received pursuant to this paragraph shall be used in determining the
11 member's retirement benefit, and shall be used in determining years
12 of service for retirement or vesting purposes;

13 8. "Actual paid base salary" means the salary received by a
14 member, excluding payment for any accumulated leave or uniform
15 allowance. Salary shall include any amount of nonelective salary
16 reduction under Section 414(h) of the Internal Revenue Code of 1986;

17 9. "Final average salary" means the average of the highest
18 thirty (30) consecutive complete months of actual paid gross salary.
19 Gross salary shall include any amount of elective salary reduction
20 under Section 457 of the Internal Revenue Code of 1986, as amended,
21 and any amount of nonelective salary reduction under Section 414(h)
22 of the Internal Revenue Code of 1986, as amended. Effective July 1,
23 1992, gross salary shall include any amount of elective salary
24 reduction under Section 125 of the Internal Revenue Code of 1986, as

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

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

1 the EGTRRA salary limit will be multiplied by a fraction, the
2 numerator of which is the number of months in the determination
3 period, and the denominator of which is twelve (12). For purposes
4 of this section, a "Noneligible Member" is any member who first
5 became a member during a plan year commencing on or after July 1,
6 1996.

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

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

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

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

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

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

15 10. "Credited service" means the period of service used to
16 determine the amount of benefits payable to a member. Credited
17 service shall consist of the period during which the member
18 participated in the System or the predecessor Plan as an active
19 employee in an eligible membership classification, plus any service
20 prior to the establishment of the predecessor Plan which was
21 credited under the predecessor Plan and for law enforcement officers
22 and criminalists of the Oklahoma State Bureau of Investigation and
23 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
24 who became members of the System on July 1, 1980, any service

1 credited under the Oklahoma Public Employees Retirement System as of
2 June 30, 1980, and for members of the Communications and Lake Patrol
3 Divisions of the Oklahoma Department of Public Safety, who became
4 members of the System on July 1, 1981, any service credited under
5 the predecessor Plan or the Oklahoma Public Employees Retirement
6 System as of June 30, 1981, and for law enforcement officers of the
7 Alcoholic Beverage Laws Enforcement Commission who became members of
8 the System on July 1, 1982, any service credited under the Oklahoma
9 Public Employees Retirement System as of June 30, 1982, and for park
10 rangers of the Oklahoma Tourism and Recreation Department who became
11 members of the System on July 1, 1985, any service credited under
12 the Oklahoma Public Employees Retirement System as of June 30, 1985,
13 and for inspectors of the Oklahoma State Board of Pharmacy who
14 became members of the System on July 1, 1986, any service credited
15 under the Oklahoma Public Employees Retirement System as of June 30,
16 1986, for law enforcement officers of the Oklahoma Capitol Patrol
17 Division of the Department of Public Safety who became members of
18 the System effective July 1, 1993, any service credited under the
19 Oklahoma Public Employees Retirement System as of June 30, 1993, and
20 for all commissioned officers in the Gunsmith/Ammunition Reloader
21 Division of the Department of Public Safety who became members of
22 the System effective July 1, 1994, any service credited under the
23 Oklahoma Public Employees Retirement System as of June 30, 1994, and
24 for the park managers or park supervisors of the Oklahoma Tourism

1 and Recreation Department who were employed in such a position prior
2 to July 1, 1985, and who elect to become members of the System
3 effective September 1, 1996, any service transferred pursuant to
4 subsection C of Section 2-309.6 of this title and any service
5 purchased pursuant to subsection B of Section 2-307.2 of this title.
6 Effective August 5, 1993, an authorized leave of absence shall
7 include a period of absence pursuant to the Family and Medical Leave
8 Act of 1993;

9 11. "Disability" means a physical or mental condition which, in
10 the judgment of the Board, totally and presumably permanently
11 prevents the member from engaging in the usual and customary duties
12 of the occupation of the member and thereafter prevents the member
13 from performing the duties of any occupation or service for which
14 the member is qualified by reason of training, education or
15 experience. A person is not under a disability when capable of
16 performing a service to the employer, regardless of occupation,
17 providing the salary of the employee is not diminished thereby;

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

21 13. "Line of duty" means any action which a member whose
22 primary function is crime control or reduction or enforcement of the
23 criminal law is obligated or authorized by rule, regulations,
24 condition of employment or service, or law to perform, including

1 those social, ceremonial, or athletic functions to which the member
2 is assigned, or for which the member is compensated, by the agency
3 the member serves;

4 14. "Personal injury" or "injury" means any traumatic injury as
5 well as diseases which are caused by or result from such an injury,
6 but not occupational diseases;

7 15. "Catastrophic nature" means consequences of an injury that
8 permanently prevent an individual from performing any gainful work;

9 16. "Traumatic injury" means a wound or a condition of the body
10 caused by external force, including injuries inflicted by bullets,
11 explosives, sharp instruments, blunt objects or other physical
12 blows, chemicals, electricity, climatic conditions, infectious
13 diseases, radiation, and bacteria, but excluding stress and strain;
14 and

15 17. "Beneficiary" means the individual designated by the member
16 on a beneficiary designation form supplied by the Oklahoma Law
17 Enforcement Retirement System, or if there is no designated
18 beneficiary or if the designated beneficiary predeceases the member,
19 the estate of the member. If the member's spouse is not designated
20 as the sole primary beneficiary, the member's spouse must sign a
21 consent.

22 SECTION 2. AMENDATORY 47 O.S. 2001, Section 2-305.1A, as
23 last amended by Section 9, Chapter 437, O.S.L. 2010 (47 O.S. Supp.
24 2010, Section 2-305.1A), is amended to read as follows:

1 Section 2-305.1A A. This section applies to distributions made
2 on or after January 1, ~~1993~~ 2002. Notwithstanding any provision of
3 the System to the contrary that would otherwise limit a
4 Distributee's election hereunder, a Distributee, including a
5 nonspouse designated beneficiary, to the extent permitted under
6 paragraph 3 of subsection B of this section, may elect, at the time
7 and in the manner prescribed by the Board, to have any portion of an
8 Eligible Rollover Distribution paid directly to:

9 1. An Eligible Retirement Plan; or

10 2. Effective for distributions after December 31, 2007, a Roth
11 IRA described in Section 408A of the Internal Revenue Code of 1986,
12 as amended, subject to any limitations described in Section 408A(c)
13 of the Internal Revenue Code of 1986, as amended,
14 specified by the Distributee in a Direct Rollover.

15 B. As used in this section:

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

1 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;
2 and the portion of any distribution that is not includable in gross
3 income. Effective January 1, 2002, a portion of a distribution
4 shall not fail to be an Eligible Rollover Distribution merely
5 because the portion consists of after-tax member contributions which
6 are not includable in gross income. However, such portion may be
7 transferred only:

8 a. from January 1, 2002, through December 31, 2006:

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

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

20 b. on or after January 1, 2007:

21 (1) to an individual retirement account or annuity
22 described in Section 408(a) or (b) of the
23 Internal Revenue Code of 1986, as amended, or
24

1 (2) in a direct trustee-to-trustee transfer to a
2 qualified trust or an annuity contract described
3 in Section 403(b) of the Internal Revenue Code of
4 1986, as amended, and such trust or ~~annuity~~
5 contract provides for separate accounting for
6 amounts so transferred (and earnings thereon),
7 including separately accounting for the portion
8 of such distribution which is includable in gross
9 income and the portion of such distribution which
10 is not so includable.

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

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

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

12 3. "Distributee" means an employee or former employee. In
13 addition, effective June 7, 1993, the employee's or former
14 employee's surviving spouse and the employee's or former employee's
15 spouse or former spouse who is the alternate payee under a qualified
16 domestic order, as defined in subsection B of Section 2-303.3 of
17 this title, are Distributees with regard to the interest of the
18 spouse or the former spouse. Effective for distributions after
19 December 31, 2006, a Distributee also includes the member's
20 nonspouse designated beneficiary (and certain trusts described in
21 Section 402(c)(11)(B) of the Internal Revenue Code of 1986, as
22 amended), pursuant to Section 401(a)(9)(E) of the Internal Revenue
23 Code of 1986, as amended, who may ~~only~~ elect any portion of a
24 payment to be made in a Direct Rollover ~~(to the extent such~~

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

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

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

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

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

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

19 D. ~~Prior~~ For distributions made after December 31, 2006, but
20 prior to January July 1, 2010, a distribution with respect to a
21 nonspouse designated beneficiary shall be made in accordance with
22 Notice 2007-7, Q&A 15, 2007-5 Internal Revenue Bulletin 395.
23 Effective ~~January 1, 2010~~ for plan years beginning after December
24 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 3. AMENDATORY Section 9, Chapter 152, O.S.L.
4 2007, as last amended by Section 10, Chapter 437, O.S.L. 2010 (47
5 O.S. Supp. 2010, Section 2-305.1B), is amended to read as follows:

6 Section 2-305.1B 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 Board,~~
12 to have a direct trustee-to-trustee transfer of any portion of such
13 beneficiary's ~~lump-sum~~ distribution from the Oklahoma Law
14 Enforcement Retirement System after December 31, 2006, made to an
15 individual retirement account or individual retirement annuity
16 (other than an endowment contract) described in Section 408(a) or
17 (b) of the Internal Revenue Code of 1986, as amended (IRA), that is
18 established on behalf of such designated individual. If such
19 transfer is made, then:

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

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

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

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

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

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

1 C. The Board shall promulgate such rules as are necessary to
2 implement the provisions of this section.

3 SECTION 4. AMENDATORY 47 O.S. 2001, Section 2-305.4, as
4 last amended by Section 12, Chapter 437, O.S.L. 2010 (47 O.S. Supp.
5 2010, Section 2-305.4), is amended to read as follows:

6 Section 2-305.4 A. For limitation years prior to July 1, 2007,
7 the limitations of Section 415 of the Internal Revenue Code of 1986,
8 as amended, shall be computed in accordance with the applicable
9 provisions of the System in effect at that time and, to the extent
10 applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-51, except
11 as provided below. Notwithstanding any other provision contained
12 herein to the contrary, the benefits payable to a member from the
13 Oklahoma Law Enforcement Retirement System provided by employer
14 contributions (including contributions picked up by the employer
15 under Section 414(h) of the Internal Revenue Code of 1986, as
16 amended), shall be subject to the limitations of Section 415 of the
17 Internal Revenue Code of 1986, as amended, in accordance with the
18 provisions of this section. The limitations of this section shall
19 apply in limitation years beginning on or after July 1, 2007, except
20 as otherwise provided below.

21 B. Except as provided below, effective for limitation years
22 ending after December 31, 2001, any accrued retirement benefit
23 payable to a member as an annual benefit as described below shall
24 not exceed One Hundred Sixty Thousand Dollars (\$160,000.00),

1 automatically adjusted under Section 415(d) of the Internal Revenue
2 Code of 1986, as amended, for increases in the cost of living, as
3 prescribed by the Secretary of the Treasury or the Secretary's
4 delegate, effective January 1 of each calendar year and applicable
5 to the limitation year ending with or within such calendar year.
6 The automatic annual adjustment of the dollar limitation in this
7 subsection under Section 415(d) of the Internal Revenue Code of
8 1986, as amended, shall apply to a member who has had a ~~separation~~
9 severance from employment.

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

1 regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax
2 Regulations.

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

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

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

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

1 automatic, periodic increases to the benefits paid in
2 that form.

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

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

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

- 19 a. a nondecreasing annuity (other than a straight life
20 annuity) payable for a period of not less than the
21 life of the member (or, in the case of a qualified
22 preretirement survivor annuity, the life of the
23 surviving spouse), or

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

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

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

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

19 (1) the interest rate and the mortality table or
20 other tabular factor, each as set forth in
21 subsection H of Section 2-303.1 of this title for
22 adjusting benefits in the same form, and

23 (2) a five percent (5%) interest rate assumption and
24 the applicable mortality table described in

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

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

5 For limitation years beginning on or after July 1,
6 2007, the actuarially equivalent straight life annuity
7 is equal to the greater of:

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

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

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

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

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

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

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 and one-half percent (5.5%) interest rate
24 assumption and the applicable mortality table

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 segment
8 rates under Section 417(e)(3)(C) and (D) of
9 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 Internal
12 Revenue Code of 1986, as amended, for the
13 fourth calendar month preceding the plan year
14 in which falls the annuity starting date for
15 the distribution and the stability period is
16 the successive period of one (1) plan year
17 which contains the annuity starting date for
18 the distribution and for which the applicable
19 interest rate remains constant, or as
20 otherwise provided in the applicable guidance
21 if the first day of the first plan year
22 beginning after December 31, 2007, does not
23 coincide with the first day of the applicable
24 stability period, and

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

5 b. Annuity Starting Date in Plan Years Beginning in 2006
6 or 2007. If the annuity starting date of the member's
7 form of benefit is in a Plan Year beginning in 2006 or
8 2007, the actuarially equivalent straight life annuity
9 is equal to the greatest of (1), (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 2-303.1 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
24

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

19 (b) the applicable mortality table described in
20 Revenue Ruling 2001-62 (or its successor for
21 these purposes, if applicable),
22 divided by one and five one-hundredths (1.05).

23 c. Annuity Starting Date in Plan Years Beginning in 2004
24 or 2005.

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

10 (a) the interest rate and the mortality table or
11 other tabular factor, each as set forth in
12 subsection H of Section 2-303.1 of this
13 title for adjusting benefits in the same
14 form, and

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

20 (2) If the annuity starting date of the member's
21 benefit is on or after the first day of the first
22 plan year beginning in 2004 and before December
23 31, 2004, the application of this subparagraph
24 shall not cause the amount payable under the

1 member's form of benefit to be less than the
2 benefit calculated under the System, taking into
3 account the limitations of this section, except
4 that the actuarially equivalent straight life
5 annuity is equal to the annual amount of the
6 straight life annuity commencing at the same
7 annuity starting date that has the same actuarial
8 present value as the member's form of benefit,
9 computed using whichever of the following
10 produces the greatest annual amount:

- 11 (a) the interest rate and mortality table or
12 other tabular factor, each as set forth in
13 subsection H of Section 2-203.1 of this
14 title for adjusting benefits in the same
15 form,
- 16 (b) 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 The stability period is the successive

1 period of one (1) plan year which
2 contains the annuity starting date for
3 the distribution and for which the
4 applicable interest rate remains
5 constant, and

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

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

1 January 1, 2004, under provisions of
2 the System then adopted and in effect),
3 and

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

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

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

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

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

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

21 (1) the interest rate and the mortality table or
22 other tabular factor, each as set forth in
23 subsection H of Section 2-303.1 of this title, or
24

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

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

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

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

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

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

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

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

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

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

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

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

1 (65) years of age and has the same accrued
2 benefit as the member.

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

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

22 E. Minimum Benefit Permitted: Notwithstanding anything else in
23 this section to the contrary, the benefit otherwise accrued or
24

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

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

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

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

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

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

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

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

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

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

20 H. Effective for years beginning after December 31, 1997, if a
21 member repays to the System any amounts received because of the
22 member's prior termination pursuant to paragraph 3 of subsection (b)
23 of Section 2-307 of this title, such repayment shall not be taken
24 into account for purposes of Section 415 of the Internal Revenue

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

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

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

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

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

21

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