

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1101 By: Barrington of the Senate
3 and
4 Armes of the House
5
6

7 [Oklahoma Firefighters Pension and Retirement System
8 - Internal Revenue Service ruling - definition -
9 eligibility - firefighter pensions - benefits -
10 emergency]
11
12

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14 Ritze

15 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
16 entire bill and insert

17 "An Act relating to the Oklahoma Firefighters Pension
18 and Retirement System; amending 11 O.S. 2011,
19 Sections 29-114, 49-100.1, as amended by Section 1,
20 Chapter 364, O.S.L. 2012, 49-106.2, as amended by
21 Section 5, Chapter 364, O.S.L. 2012 and 49-106.5 (11
22 O.S. Supp. 2012, Sections 49-100.1 and 49-106.2),
23 which relate to the administration of the retirement
24 system; modifying reference to Internal Revenue
Service ruling; modifying definition; modifying
internal statutory references; modifying reference
to certain years related to service credit;
modifying definition; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 11 O.S. 2011, Section 29-114, is
2 amended to read as follows:

3 Section 29-114. All firefighters in the state whose fire
4 department provides fire protection services to a participating
5 municipality, as defined in paragraph 9 of Section 49-100.1 of ~~Title~~
6 ~~11 of the Oklahoma Statutes~~ this title, on or after the effective
7 date of this act shall be governmental employees, as described in
8 Internal Revenue Service Revenue ~~Rule 89-49~~ Ruling 1989-49, 1989-1
9 CB 117, and shall be members of the Oklahoma Firefighters Pension
10 and Retirement System. The Oklahoma Firefighters Pension and
11 Retirement Board shall determine whether a firefighter is a
12 governmental employee as defined in this section.

13 SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-100.1, as
14 amended by Section 1, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2012,
15 Section 49-100.1), is amended to read as follows:

16 Section 49-100.1 As used in this article:

17 1. "System" means the Oklahoma Firefighters Pension and
18 Retirement System and all predecessor municipal firefighters pension
19 and retirement systems;

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

21 3. "State Board" means the Oklahoma Firefighters Pension and
22 Retirement Board;

23 4. "Local board" means the local firefighters pension and
24 retirement boards;

1 5. "Fund" means the Oklahoma Firefighters Pension and
2 Retirement Fund;

3 6. "Member" means all eligible firefighters of a participating
4 municipality or a fire protection district who perform the essential
5 functions of fire suppression, prevention, and life safety duties in
6 a fire department. The term "member" shall include but not be
7 limited to the person serving as fire chief of any participating
8 municipality, provided that a person serving as fire chief of a
9 participating municipality shall meet the age, agility, physical and
10 other eligibility requirements required by law at the time said
11 person becomes a member of the System. Effective July 1, 1987, a
12 member does not include a "leased employee". The term "leased
13 employee" means any person (other than an employee of the recipient)
14 who pursuant to an agreement between the recipient and any other
15 person ("leasing organization") has performed services for the
16 recipient (or for the recipient and related persons determined in
17 accordance with Section 414(n)(6) of the Internal Revenue Code of
18 1986, as amended) on a substantially full-time basis for a period of
19 at least one (1) year, and such services are performed under primary
20 direction or control by the recipient. Contributions or benefits
21 provided a leased employee by the leasing organization which are
22 attributable to services performed for the recipient employer shall
23 be treated as provided by the recipient employer. A leased employee
24 shall not be considered an employee of the recipient if the

1 requirements of the safe harbor provisions of Section 414(n) (5) of
2 the Internal Revenue Code of 1986, as amended, are satisfied.
3 Effective July 1, 1999, any individual who agrees with the
4 participating municipality that the individual's services are to be
5 performed as a leased employee or an independent contractor shall
6 not be a member regardless of any classification as a common law
7 employee by the Internal Revenue Service or any other governmental
8 agency, or any court of competent jurisdiction;

9 7. "Normal retirement date" means the date at which the member
10 is eligible to receive the unreduced payments of the member's
11 accrued retirement benefit. Such date shall be the first day
12 following the date the member completes twenty (20) years of
13 credited service. If the member's employment continues past the
14 normal retirement date of the member, the actual retirement date of
15 the member shall be the first day following the date the member
16 terminates employment with more than twenty (20) years of credited
17 service;

18 8. "Credited service" means the period of service used to
19 determine the eligibility for and the amount of benefits payable to
20 a member. Credited service shall consist of the period during which
21 the member participated in the System or the predecessor municipal
22 systems as an active employee in an eligible membership
23 classification, plus any service prior to the establishment of the
24 predecessor municipal systems which was credited under the

1 predecessor municipal systems; provided, however, "credited service"
2 for members from a fire protection district shall not begin accruing
3 before July 1, 1982;

4 9. "Participating municipality" means a municipality, county
5 fire department organized pursuant to subsection D of Section 351 of
6 Title 19 of the Oklahoma Statutes, or fire protection district which
7 is making contributions to the System on behalf of its firefighters.
8 All participating municipalities shall appoint a fire chief who
9 shall supervise and administer the fire department;

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

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

17 12. "Eligible employer" means any municipality with a municipal
18 fire department, any county fire department organized pursuant to
19 subsection D of Section 351 of Title 19 of the Oklahoma Statutes or
20 a any fire protection district with an organized fire department;

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

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

22 In addition to other applicable limitations, and notwithstanding
23 any other provision to the contrary, for plan years beginning on or
24 after July 1, 2002, the annual gross salary of each "Noneligible

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

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

21 Effective June 9, 2010, gross salary shall also include gross
22 salary, as described above, for services, but paid by the later of
23 two and one-half (2 1/2) months after a firefighter's severance from
24 employment or the end of the calendar year that includes the date

1 the firefighter terminated employment, if it is a payment that,
2 absent a severance from employment, would have been paid to the
3 firefighter while the firefighter continued in employment with the
4 participating municipality.

5 Effective June 9, 2010, any payments not described above shall
6 not be considered gross salary if paid after severance from
7 employment, even if they are paid by the later of two and one-half
8 (2 1/2) months after the date of severance from employment or the
9 end of the calendar year that includes the date of severance from
10 employment, except payments to an individual who does not currently
11 perform services for the participating municipality by reason of
12 qualified military service within the meaning of Section 414(u)(5)
13 of the Internal Revenue Code of 1986, as amended, to the extent
14 these payments do not exceed the amounts the individual would have
15 received if the individual had continued to perform services for the
16 participating municipality rather than entering qualified military
17 service.

18 Effective June 9, 2010, back pay, within the meaning of Section
19 1.415(c)-2(g)(8) of the Income Tax Regulations, shall be treated as
20 gross salary for the year to which the back pay relates to the
21 extent the back pay represents wages and compensation that would
22 otherwise be included in this definition.

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1 Effective for years beginning after December 31, 2008, gross
2 salary shall also include differential wage payments under Section
3 414(u) (12) of the Internal Revenue Code of 1986, as amended;

4 15. "Accrued retirement benefit" means two and one-half percent
5 (2 1/2%) of the firefighter's final average salary multiplied by the
6 member's years of credited service not to exceed thirty (30) years;

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

1 thirty-month adoption requirement. This definition of beneficiary
2 shall be in addition to any other requirement set forth in this
3 article;

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

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

15 SECTION 3. AMENDATORY 11 O.S. 2011, Section 49-106.2, as
16 amended by Section 5, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2012,
17 Section 49-106.2), is amended to read as follows:

18 Section 49-106.2 A. For limitation years prior to July 1,
19 2007, the limitations of Section 415 of the Internal Revenue Code of
20 1986, as amended, shall be computed in accordance with the
21 applicable provisions of the System in effect at that time and, to
22 the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-
23 51, except as provided below. Notwithstanding any other provision
24 contained herein to the contrary, the benefits payable to a member

1 from the System provided by employer contributions (including
2 contributions picked up by the employer under Section 414(h) of the
3 Internal Revenue Code of 1986, as amended) shall be subject to the
4 limitations of Section 415 of the Internal Revenue Code of 1986, as
5 amended, in accordance with the provisions of this section. The
6 limitations of this section shall apply in limitation years
7 beginning on or after July 1, 2007, except as otherwise provided
8 below.

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

22 1. The member's annual benefit is a benefit that is payable
23 annually in the form of a straight life annuity. Except as provided
24 below, where a benefit is payable in a form other than a straight

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

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

- 16 a. survivor benefits payable to a surviving spouse under
17 a qualified joint and survivor annuity to the extent
18 such benefits would not be payable if the member's
19 benefit were paid in another form,
- 20 b. benefits that are not directly related to retirement
21 benefits such as a qualified disability benefit,
22 preretirement incidental death benefits, and
23 postretirement medical benefits, or
24

1 c. the inclusion in the form of benefit of an automatic
2 benefit increase feature, provided, the form of
3 benefit is not subject to Section 417(e)(3) of the
4 Internal Revenue Code of 1986, as amended, and would
5 otherwise satisfy the limitations of this section, and
6 the System provides that the amount payable under the
7 form of benefit in any limitation year shall not
8 exceed the limits of this section applicable at the
9 annuity starting date, as increased in subsequent
10 years pursuant to Section 415(d) of the Internal
11 Revenue Code of 1986, as amended. For this purpose,
12 an automatic benefit increase feature is included in a
13 form of benefit if the form of benefit provides for
14 automatic, periodic increases to the benefits paid in
15 that form.

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

23 4. Effective for distributions in plan years beginning after
24 December 31, 2003, the determination of actuarial equivalence of

1 forms of benefit other than a straight life annuity shall be made in
2 accordance with paragraph 5 or paragraph 6 of this subsection.

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

8 a. a nondecreasing annuity (other than a straight life
9 annuity) payable for a period of not less than the
10 life of the member (or, in the case of a qualified
11 preretirement survivor annuity, the life of the
12 surviving spouse), or

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

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

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

23 c. Limitation Years Beginning Before July 1, 2007. For
24 limitation years beginning before July 1, 2007, the

1 actuarially equivalent straight life annuity is equal
2 to the annual amount of the straight life annuity
3 commencing at the same annuity starting date that has
4 the same actuarial present value as the member's form
5 of benefit computed using whichever of the following
6 produces the greater annual amount:

- 7 (1) the interest rate and the mortality table or
8 other tabular factor, each as set forth in
9 subsection H of Section 49-100.9 of this title
10 for adjusting benefits in the same form, and
11 (2) a five percent (5%) interest rate assumption and
12 the applicable mortality table described in
13 Revenue Ruling 2001-62 (or its successor for
14 these purposes, if applicable) for that annuity
15 starting date.

16 d. Limitation Year Beginning On January 1, 2008. For the
17 limitation year beginning on January 1, 2008, the
18 actuarially equivalent straight life annuity is equal
19 to the greater of:

- 20 (1) the annual amount of the straight life annuity,
21 if any, payable to the member under the System
22 commencing at the same annuity starting date as
23 the member's form of benefit, and
24

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

10 e. Limitation Years Beginning On or After July 1, 2008.

11 For limitation years beginning on or after July 1,
12 2008, the actuarially equivalent straight life annuity
13 is equal to the greater of:

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

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 percent (5%) interest rate assumption and the
23 applicable mortality table within the meaning of
24 Section 417(e) (3) (B) of the Internal Revenue Code

1 of 1986, as amended, as described in Revenue
2 Ruling 2007-67 (and subsequent guidance) for that
3 annuity starting date.

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

11 a. Annuity Starting Date on or after January 1, 2009. If
12 the annuity starting date of the member's form of
13 benefit is in the period beginning on January 1, 2009
14 through June 30, 2009, or in a plan year beginning
15 after June 30, 2009, the actuarially equivalent
16 straight life annuity is equal to the greatest of
17 divisions (1), (2) and (3) ~~below~~ of this subparagraph:

18 (1) 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 the
22 interest rate and the mortality table or other
23 tabular factor as set forth in the most recent
24 actuarial valuation referenced in subsection H of

1 Section 49-100.9 of this title prior to September
2 1, 2011, and effective September 1, 2011, in
3 subsection L of this section for adjusting
4 benefits in the same form,

5 (2) the annual amount of the straight life annuity
6 commencing at the same annuity starting date that
7 has the same actuarial present value as the
8 member's form of benefit, computed using a five
9 and one-half percent (5.5%) interest rate
10 assumption and the applicable mortality table
11 within the meaning of Section 417(e)(3)(B) of the
12 Internal Revenue Code of 1986, as amended, as
13 described in Revenue Ruling 2007-67 (and
14 subsequent guidance), and

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

19 (a) the adjusted first, second, and third
20 segment rates under Section 417(e)(3)(C) and
21 (D) of the Internal Revenue Code of 1986, as
22 amended, applied under rules similar to the
23 rules of Section 430(h)(2)(C) of the
24 Internal Revenue Code of 1986, as amended,

1 for the fourth calendar month preceding the
2 plan year in which falls the annuity
3 starting date for the distribution and the
4 stability period is the successive period of
5 one plan year which contains the annuity
6 starting date for the distribution and for
7 which the applicable interest rate remains
8 constant, or as otherwise provided in the
9 applicable guidance if the first day of the
10 first plan year beginning after December 31,
11 2007, does not coincide with the first day
12 of the applicable stability period, and

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

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

19 b. Annuity Starting Date in the Period Beginning on July
20 1, 2008 through December 31, 2008. If the annuity
21 starting date of the member's form of benefit is in
22 the period beginning on July 1, 2008 through December
23 31, 2008, the actuarially equivalent straight life
24

1 annuity is equal to the greatest of divisions (1), (2)
2 and (3) ~~below~~ of this subparagraph:

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

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

19 (3) 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:

23 (a) the adjusted first, second, and third
24 segment rates under Section 417(e)(3)(C) and

1 (D) of the Internal Revenue Code of 1986, as
2 amended, applied under rules similar to the
3 rules of Section 430(h)(2)(C) of the
4 Internal Revenue Code of 1986, as amended,
5 for the fourth calendar month preceding the
6 plan year in which falls the annuity
7 starting date for the distribution and the
8 stability period is the successive period of
9 one (1) plan year which contains the annuity
10 starting date for the distribution and for
11 which the applicable interest rate remains
12 constant, or as otherwise provided in the
13 applicable guidance if the first day of the
14 first plan year beginning after December 31,
15 2007, does not coincide with the first day
16 of the applicable stability period, and

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

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

21 c. Annuity Starting Date in Plan Years Beginning in 2006
22 or 2007. If the annuity starting date of the member's
23 form of benefit is in a plan year beginning in 2006 or
24 2007, the actuarially equivalent straight life annuity

1 is equal to the greatest of divisions (1), (2) and (3)
2 below of this subparagraph:

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

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

19 (3) 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:

23 (a) the rate of interest on thirty-year Treasury
24 securities as specified by the Commissioner

1 for the lookback month for the stability
2 period specified below. The lookback month
3 applicable to the stability period is the
4 fourth calendar month preceding the first
5 day of the stability period, as specified
6 below. The stability period is the
7 successive period of one (1) plan year which
8 contains the annuity starting date for the
9 distribution and for which the applicable
10 interest rate remains constant, and

11 (b) the applicable mortality table described in
12 Revenue Ruling 2001-62 (or its successor for
13 these purposes, if applicable),
14 divided by one and five one-hundredths (1.05).

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

17 (1) If the annuity starting date of the member's form
18 of benefit is in a plan year beginning in 2004 or
19 2005, the actuarially equivalent straight life
20 annuity is equal to the annual amount of the
21 straight life annuity commencing at the same
22 annuity starting date that has the same actuarial
23 present value as the member's form of benefit,
24

1 computed using whichever of the following
2 produces the greater annual amount:

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

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

13 (2) If the annuity starting date of the member's
14 benefit is on or after the first day of the first
15 plan year beginning in 2004 and before December
16 31, 2004, the application of this subparagraph
17 shall not cause the amount payable under the
18 member's form of benefit to be less than the
19 benefit calculated under the System, taking into
20 account the limitations of this section, except
21 that the actuarially equivalent straight life
22 annuity is equal to the annual amount of the
23 straight life annuity commencing at the same
24 annuity starting date that has the same actuarial

1 present value as the member's form of benefit,
2 computed using whichever of the following
3 produces the greatest annual amount:

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

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

1 its successor for these purposes, if
2 applicable), and

3 (c) i. the rate of interest on thirty-year
4 Treasury securities as specified by the
5 Commissioner for the lookback month for
6 the stability period specified below.

7 The lookback month applicable to the
8 stability period is the fourth calendar
9 month preceding the first day of the
10 stability period, as specified below.

11 The stability period is the successive
12 period of one (1) plan year which
13 contains the annuity starting date for
14 the distribution and for which the
15 applicable interest rate remains
16 constant (as in effect on the last day
17 of the last plan year beginning before
18 January 1, 2004, under provisions of
19 the System then adopted and in effect),
20 and

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

1 C. If a member has less than ten (10) years of participation in
2 the System and all predecessor municipal firefighter pension and
3 retirement systems, the dollar limitation otherwise applicable under
4 subsection B of this section shall be multiplied by a fraction, the
5 numerator of which is the number of the years of participation, or
6 part thereof, in the System of the member, but never less than one
7 (1), and the denominator of which is ten (10).

8 D. Adjustment of Dollar Limitation for Benefit Commencement
9 Before Sixty-two (62) Years of Age or After Sixty-five (65) Years of
10 Age: Effective for benefits commencing in limitation years ending
11 after December 31, 2001, the dollar limitation under subsection B of
12 this section shall be adjusted if the annuity starting date of the
13 member's benefit is before sixty-two (62) years of age or after
14 sixty-five (65) years of age. If the annuity starting date is
15 before sixty-two (62) years of age, the dollar limitation under
16 subsection B of this section shall be adjusted under paragraph 1 of
17 this subsection, as modified by paragraph 3 of this subsection, but
18 subject to paragraph 4 of this subsection. If the annuity starting
19 date is after sixty-five (65) years of age, the dollar limitation
20 under subsection B of this section shall be adjusted under paragraph
21 2 of this subsection, as modified by paragraph 3 of this subsection.

22 1. Adjustment of Defined Benefit Dollar Limitation for Benefit
23 Commencement Before Sixty-two (62) Years of Age:
24

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

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

18 or

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

23 b. Limitation Years Beginning On or After July 1, 2007.
24

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

5 (a) If the annuity starting date for the
6 member's benefit is prior to sixty-two (62)
7 years of age and occurs in the limitation
8 year beginning on January 1, 2008, and the
9 System does not have an immediately
10 commencing straight life annuity payable at
11 both sixty-two (62) years of age and the age
12 of benefit commencement, the dollar
13 limitation for the member's annuity starting
14 date is the annual amount of a benefit
15 payable in the form of a straight life
16 annuity commencing at the member's annuity
17 starting date that is the actuarial
18 equivalent of the dollar limitation under
19 subsection B of this section (adjusted under
20 subsection C of this section for years of
21 participation less than ten (10), if
22 required) with actuarial equivalence
23 computed using a five percent (5%) interest
24 rate assumption and the applicable mortality

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

7 (b) If the annuity starting date for the
8 member's benefit is prior to sixty-two (62)
9 years of age and occurs in a limitation year
10 beginning on or after January 1, 2009, and
11 the System does not have an immediately
12 commencing straight life annuity payable at
13 both sixty-two (62) years of age and the age
14 of benefit commencement, the dollar
15 limitation for the member's annuity starting
16 date is the annual amount of a benefit
17 payable in the form of a straight life
18 annuity commencing at the member's annuity
19 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
24 required) with actuarial equivalence

1 computed using a five percent (5%) interest
2 rate assumption and the applicable mortality
3 table within the meaning of Section
4 417(e) (3) (B) of the Internal Revenue Code of
5 1986, as amended, as described in Revenue
6 Ruling 2007-67 (and subsequent guidance)
7 (and expressing the member's age based on
8 completed calendar months as of the annuity
9 starting date).

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

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

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

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

1 whichever of the following produces the smaller annual
2 amount:

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

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

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

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

16 (a) If the annuity starting date for the
17 member's benefit is after sixty-five (65)
18 years of age and occurs in the limitation
19 year beginning on January 1, 2008, and the
20 System does not have an immediately
21 commencing straight life annuity payable at
22 both sixty-five (65) years of age and the
23 age of benefit commencement, the dollar
24 limitation at the member's annuity starting

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

18 (b) If the annuity starting date for the
19 member's benefit is after sixty-five (65)
20 years of age and occurs in a limitation year
21 beginning on or after January 1, 2009, and
22 the System does not have an immediately
23 commencing straight life annuity payable at
24 both sixty-five (65) years of age and the

1 age of benefit commencement, the dollar
2 limitation at the member's annuity starting
3 date is the annual amount of a benefit
4 payable in the form of a straight life
5 annuity commencing at the member's annuity
6 starting date that is the actuarial
7 equivalent of the dollar limitation under
8 subsection B of this section (adjusted under
9 subsection C of this section for years of
10 participation less than ten (10), if
11 required) with actuarial equivalence
12 computed using a five percent (5%) interest
13 rate assumption and the applicable mortality
14 table within the meaning of Section
15 417(e) (3) (B) of the Internal Revenue Code of
16 1986, as amended, as described in Revenue
17 Ruling 2007-67 (and subsequent guidance)
18 (and expressing the member's age based on
19 completed calendar months as of the annuity
20 starting date).

- 21 (2) System Has Immediately Commencing Straight Life
22 Annuity Payable at Both Sixty-five (65) Years of
23 Age and Age of Benefit Commencement. If the
24 annuity starting date for the member's benefit is

1 after sixty-five (65) years of age and occurs in
2 a limitation year beginning on or after July 1,
3 2007, and the System has an immediately
4 commencing straight life annuity payable at both
5 sixty-five (65) years of age and the age of
6 benefit commencement, the dollar limitation at
7 the member's annuity starting date is the lesser
8 of the limitation determined under division (1)
9 of this subparagraph ~~b of this paragraph~~ and the
10 dollar limitation under subsection B of this
11 section (adjusted under subsection C of this
12 section for years of participation less than ten
13 (10), if required) multiplied by the ratio of the
14 annual amount of the adjusted immediately
15 commencing straight life annuity under the System
16 at the member's annuity starting date to the
17 annual amount of the adjusted immediately
18 commencing straight life annuity under the System
19 at sixty-five (65) years of age, both determined
20 without applying the limitations of this section.
21 For this purpose, the adjusted immediately
22 commencing straight life annuity under the System
23 at the member's annuity starting date is the
24 annual amount of such annuity payable to the

1 member, computed disregarding the member's
2 accruals after sixty-five (65) years of age but
3 including actuarial adjustments even if those
4 actuarial adjustments are used to offset
5 accruals; and the adjusted immediately commencing
6 straight life annuity under the System at sixty-
7 five (65) years of age is the annual amount of
8 such annuity that would be payable under the
9 System to a hypothetical member who is sixty-five
10 (65) years of age and has the same accrued
11 benefit as the member.

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

1 4. Notwithstanding any other provision to the contrary, for
2 limitation years beginning on or after January 1, 1997, if payment
3 begins before the member reaches sixty-two (62) years of age, the
4 reductions in the limitations in this subsection shall not apply to
5 a member who is a "qualified participant" as defined in Section
6 415(b)(2)(H) of the Internal Revenue Code of 1986, as amended.

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

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

- 17 a. the numerator of which is the member's number of
18 credited years (or part thereof, but not less than one
19 (1) year) of service (not to exceed ten (10) years)
20 with the participating municipality, and
21 b. the denominator of which is ten (10); and

22 2. The participating municipality (or a predecessor employer)
23 has not at any time maintained a defined contribution plan in which
24 the member participated (for this purpose, mandatory employee

1 contributions under a defined benefit plan, individual medical
2 accounts under Section 401(h) of the Internal Revenue Code of 1986,
3 as amended, and accounts for postretirement medical benefits
4 established under Section 419A(d)(1) of the Internal Revenue Code of
5 1986, as amended, are not considered a separate defined contribution
6 plan).

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

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

1 H. ~~Effective for years beginning after December 31, 1997, if~~
2 ~~If a member purchases service credit under Sections 49-117.2 and 49-~~
3 ~~117.3 of this title the System,~~ which qualifies as "permissive
4 service credit" pursuant to Section 415(n) of the Internal Revenue
5 Code of 1986, as amended, the limitations of Section 415 of the
6 Internal Revenue Code of 1986, as amended, may be met by either:

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

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

12 I. ~~Effective for years beginning after December 31, 1997, if~~ If
13 a member repays to the System any amounts ~~received~~ refunded from the
14 System because of the member's prior termination ~~pursuant to~~ or any
15 other amount which qualifies as a repayment under Section ~~49-117.1~~
16 415(k)(3) of this title the Internal Revenue Code of 1986, such
17 repayment shall not be taken into account for purposes of Section
18 415 of the Internal Revenue Code of 1986, as amended, pursuant to
19 Section 415(k)(3) of the Internal Revenue Code of 1986, as amended.

20 J. For distributions made in limitation years beginning on or
21 after January 1, 2000, the combined limit of repealed Section 415(e)
22 of the Internal Revenue Code of 1986, as amended, shall not apply.
23
24

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

4 L. Effective September 1, 2011, the interest rate and mortality
5 assumptions for the System used to determine the actuarial
6 equivalence of a member's form of benefit shall be set by the State
7 Board in a manner that precludes employer discretion, shall be based
8 upon recommendations from independent professional advisors and
9 shall be published annually in the actuarial valuation.

10 SECTION 4. AMENDATORY 11 O.S. 2011, Section 49-106.5, is
11 amended to read as follows:

12 Section 49-106.5 A. A member who is an eligible retired public
13 safety officer and who wishes to have direct payments made toward
14 the member's qualified health insurance premiums from the member's
15 monthly disability benefit or monthly pension payment must make a
16 written election in accordance with Section 402(1) of the Internal
17 Revenue Code of 1986, as amended, on the form provided by the
18 Oklahoma Firefighters Pension and Retirement System, as follows:

19 1. The election must be made after the member separates from
20 service as a public safety officer with the member's participating
21 municipality;

22 2. The election shall only apply to distributions from the
23 System after December 31, 2006, and to amounts not yet distributed
24 to the eligible retired public safety officer;

1 3. Direct payments for an eligible retired public safety
2 officer's qualified health insurance premiums can only be made from
3 the member's monthly disability benefit or monthly pension payment
4 from the System and cannot be made from the Deferred Option Plan;
5 and

6 4. The aggregate amount of the exclusion from an eligible
7 retired public safety officer's gross income is Three Thousand
8 Dollars (\$3,000.00) per calendar year.

9 B. As used in this section:

10 1. "Public safety officer" means a member serving a public
11 agency in an official capacity, with or without compensation, as a
12 law enforcement officer, firefighter, chaplain, or as a member of a
13 rescue squad or ambulance crew;

14 2. "Eligible retired public safety officer" means a member who,
15 by reason of disability or attainment of normal retirement date or
16 age, is separated from service as a public safety officer with the
17 member's participating municipality; and

18 3. "Qualified health insurance premiums" ~~means~~ are premiums for
19 coverage for the eligible retired public safety officer, the
20 eligible retired public safety officer's spouse, and dependents, as
21 defined in Section 152 of the Internal Revenue Code of 1986, as
22 amended, by an accident or health ~~insurance~~ plan or a qualified
23 long-term care insurance contract, as defined in Section 7702B(b) of
24 the Internal Revenue Code of 1986, as amended. The health plan does

1 not have to be sponsored by the eligible retired public safety
2 officer's former participating municipality.

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

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

10 Passed the House of Representatives the 28th day of March, 2013.

11

12

13

Presiding Officer of the House of
Representatives

14

15 Passed the Senate the ____ day of _____, 2013.

16

17

18

Presiding Officer of the Senate

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