

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1101

By: Barrington of the Senate

and

Armes and McDaniel (Randy)
of the House

COMMITTEE SUBSTITUTE

[Oklahoma Firefighters Pension and Retirement System
- Internal Revenue Service ruling - definition -
eligibility - firefighter pensions - benefits -
emergency]

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

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

Section 29-114. All firefighters in the state whose fire
department provides fire protection services to a participating
municipality, as defined in paragraph 9 of Section 49-100.1 of ~~Title~~
~~11 of the Oklahoma Statutes~~ this title, on or after the effective
date of this act shall be governmental employees, as described in

1 Internal Revenue Service Revenue ~~Rule 89-49~~ Ruling 1989-49, 1989-1
2 CB 117, and shall be members of the Oklahoma Firefighters Pension
3 and Retirement System. The Oklahoma Firefighters Pension and
4 Retirement Board shall determine whether a firefighter is a
5 governmental employee as defined in this section.

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

9 Section 49-100.1 As used in this article:

10 1. "System" means the Oklahoma Firefighters Pension and
11 Retirement System and all predecessor municipal firefighters pension
12 and retirement systems;

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

14 3. "State Board" means the Oklahoma Firefighters Pension and
15 Retirement Board;

16 4. "Local board" means the local firefighters pension and
17 retirement boards;

18 5. "Fund" means the Oklahoma Firefighters Pension and
19 Retirement Fund;

20 6. "Member" means all eligible firefighters of a participating
21 municipality or a fire protection district who perform the essential
22 functions of fire suppression, prevention, and life safety duties in
23 a fire department. The term "member" shall include but not be
24 limited to the person serving as fire chief of any participating

1 municipality, provided that a person serving as fire chief of a
2 participating municipality shall meet the age, agility, physical and
3 other eligibility requirements required by law at the time said
4 person becomes a member of the System. Effective July 1, 1987, a
5 member does not include a "leased employee". The term "leased
6 employee" means any person (other than an employee of the recipient)
7 who pursuant to an agreement between the recipient and any other
8 person ("leasing organization") has performed services for the
9 recipient (or for the recipient and related persons determined in
10 accordance with Section 414(n) (6) of the Internal Revenue Code of
11 1986, as amended) on a substantially full-time basis for a period of
12 at least one (1) year, and such services are performed under primary
13 direction or control by the recipient. Contributions or benefits
14 provided a leased employee by the leasing organization which are
15 attributable to services performed for the recipient employer shall
16 be treated as provided by the recipient employer. A leased employee
17 shall not be considered an employee of the recipient if the
18 requirements of the safe harbor provisions of Section 414(n) (5) of
19 the Internal Revenue Code of 1986, as amended, are satisfied.
20 Effective July 1, 1999, any individual who agrees with the
21 participating municipality that the individual's services are to be
22 performed as a leased employee or an independent contractor shall
23 not be a member regardless of any classification as a common law
24

1 employee by the Internal Revenue Service or any other governmental
2 agency, or any court of competent jurisdiction;

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

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

22 9. "Participating municipality" means a municipality, county
23 fire department organized pursuant to subsection D of Section 351 of
24 Title 19 of the Oklahoma Statutes, or fire protection district which

1 is making contributions to the System on behalf of its firefighters.
 2 All participating municipalities shall appoint a fire chief who
 3 shall supervise and administer the fire department;

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

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

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

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

18 14. "Final average salary" means the average paid gross salary
 19 of the firefighter for normally scheduled hours over the highest
 20 salaried thirty (30) consecutive months of the last sixty (60)
 21 months of credited service. Gross salary shall not include payment
 22 for accumulated sick or annual leave upon termination of employment,
 23 any uniform allowances or any other compensation for reimbursement
 24 of out-of-pocket expenses. Only salary on which the required

1 contributions have been made may be used in computing the final
2 average salary. Effective January 1, 1988, gross salary shall
3 include any amount of elective salary reduction under Section 125 of
4 the Internal Revenue Code of 1986, as amended. Gross salary shall
5 include any amount of elective salary reduction under Section 457 of
6 the Internal Revenue Code of 1986, as amended, and any amount of
7 nonelective salary reduction under Section 414(h) of the Internal
8 Revenue Code of 1986, as amended. Effective July 1, 1998, for
9 purposes of determining a member's compensation, any contribution by
10 the member to reduce the member's regular cash remuneration under
11 132(f) (4) of the Internal Revenue Code of 1986, as amended, shall be
12 treated as if the member did not make such an election. Only salary
13 on which required contributions have been made may be used in
14 computing final average salary.

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

1 period, not exceeding twelve (12) months, over which salary is
2 determined ("determination period") beginning in such calendar year.
3 If a determination period consists of fewer than twelve (12) months,
4 the EGTRRA salary limit will be multiplied by a fraction, the
5 numerator of which is the number of months in the determination
6 period, and the denominator of which is twelve (12). For purposes
7 of this subsection, a "Noneligible Member" is any member who first
8 became a member during a plan year commencing on or after July 1,
9 1996.

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

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

22 Effective June 9, 2010, any payments not described above shall
23 not be considered gross salary if paid after severance from
24 employment, even if they are paid by the later of two and one-half

1 (2 1/2) months after the date of severance from employment or the
2 end of the calendar year that includes the date of severance from
3 employment, except payments to an individual who does not currently
4 perform services for the participating municipality by reason of
5 qualified military service within the meaning of Section 414(u) (5)
6 of the Internal Revenue Code of 1986, as amended, to the extent
7 these payments do not exceed the amounts the individual would have
8 received if the individual had continued to perform services for the
9 participating municipality rather than entering qualified military
10 service.

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

16 Effective for years beginning after December 31, 2008, gross
17 salary shall also include differential wage payments under Section
18 414(u) (12) of the Internal Revenue Code of 1986, as amended;

19 15. "Accrued retirement benefit" means two and one-half percent
20 (2 1/2%) of the firefighter's final average salary multiplied by the
21 member's years of credited service not to exceed thirty (30) years;

22 16. "Beneficiary" means a member's surviving spouse or any
23 surviving children, including biological and adopted children, at
24 the time of the member's death. The surviving spouse must have been

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

19 17. "Accumulated contributions" means the sum of all
20 contributions made by a member to the System and includes both
21 contributions deducted from the compensation of a member and
22 contributions of a member picked up and paid by the participating
23 municipality of the member. Accumulated contributions shall not
24 include any interest on the contributions of the member, interest on

1 any amount contributed by the municipality or state and any amount
2 contributed by the municipality or state; and

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

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

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

24

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

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

1 adjusting for past and future distributions of benefits commencing
2 at the other annuity starting dates. For this purpose, the
3 determination of whether a new starting date has occurred shall be
4 made without regard to Section 1.401(a)-20, Q&A 10(d), and with
5 regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax
6 Regulations.

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

- 8 a. survivor benefits payable to a surviving spouse under
9 a qualified joint and survivor annuity to the extent
10 such benefits would not be payable if the member's
11 benefit were paid in another form,
- 12 b. benefits that are not directly related to retirement
13 benefits such as a qualified disability benefit,
14 preretirement incidental death benefits, and
15 postretirement medical benefits, or
- 16 c. the inclusion in the form of benefit of an automatic
17 benefit increase feature, provided, the form of
18 benefit is not subject to Section 417(e)(3) of the
19 Internal Revenue Code of 1986, as amended, and would
20 otherwise satisfy the limitations of this section, and
21 the System provides that the amount payable under the
22 form of benefit in any limitation year shall not
23 exceed the limits of this section applicable at the
24 annuity starting date, as increased in subsequent

1 years pursuant to Section 415(d) of the Internal
2 Revenue Code of 1986, as amended. For this purpose,
3 an automatic benefit increase feature is included in a
4 form of benefit if the form of benefit provides for
5 automatic, periodic increases to the benefits paid in
6 that form.

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

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

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

- 23 a. a nondecreasing annuity (other than a straight life
24 annuity) payable for a period of not less than the

1 life of the member (or, in the case of a qualified
2 preretirement survivor annuity, the life of the
3 surviving spouse), or

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

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

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

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

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

1 subsection H of Section 49-100.9 of this title
 2 for adjusting benefits in the same form, and
 3 (2) a five percent (5%) interest rate assumption and
 4 the applicable mortality table described in
 5 Revenue Ruling 2001-62 (or its successor for
 6 these purposes, if applicable) for that annuity
 7 starting date.

8 d. Limitation Year Beginning On January 1, 2008. For the
 9 limitation year beginning on January 1, 2008, the
 10 actuarially equivalent straight life annuity is equal
 11 to the greater of:

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

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

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

2 For limitation years beginning on or after July 1,
3 2008, the actuarially equivalent straight life annuity
4 is equal to the greater of:

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

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

19 6. Benefit Forms Subject to Section 417 (e) (3) of the Internal
20 Revenue Code of 1986, as amended: The straight life annuity that is
21 actuarially equivalent to the member's form of benefit shall be
22 determined under this paragraph ~~6~~ if the form of the member's
23 benefit is other than a benefit form described in paragraph 5 of
24

1 this subsection. In this case, the actuarially equivalent straight
2 life annuity shall be determined as follows:

3 a. Annuity Starting Date on or after January 1, 2009. If
4 the annuity starting date of the member's form of
5 benefit is in the period beginning on January 1, 2009
6 through June 30, 2009, or in a plan year beginning
7 after June 30, 2009, the actuarially equivalent
8 straight life annuity is equal to the greatest of
9 divisions (1), (2) and (3) ~~below~~ of this subparagraph:

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 as set forth in the most recent
16 actuarial valuation referenced in subsection H of
17 Section 49-100.9 of this title prior to September
18 1, 2011, and effective September 1, 2011, in
19 subsection L of this section for adjusting
20 benefits in the same form,

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

1 and one-half percent (5.5%) interest rate
2 assumption and the applicable mortality table
3 within the meaning of Section 417(e) (3) (B) of the
4 Internal Revenue Code of 1986, as amended, as
5 described in Revenue Ruling 2007-67 (and
6 subsequent guidance), and

7 (3) the annual amount of the straight life annuity
8 commencing at the same annuity starting date that
9 has the same actuarial present value as the
10 member's form of benefit, computing using:

11 (a) the adjusted first, second, and third
12 segment rates under Section 417(e) (3) (C) and
13 (D) of the Internal Revenue Code of 1986, as
14 amended, applied under rules similar to the
15 rules of Section 430(h) (2) (C) of the
16 Internal Revenue Code of 1986, as amended,
17 for the fourth calendar month preceding the
18 plan year in which falls the annuity
19 starting date for the distribution and the
20 stability period is the successive period of
21 one plan year which contains the annuity
22 starting date for the distribution and for
23 which the applicable interest rate remains
24 constant, or as otherwise provided in the

1 applicable guidance if the first day of the
 2 first plan year beginning after December 31,
 3 2007, does not coincide with the first day
 4 of the applicable stability period, and

5 (b) the applicable mortality table within the
 6 meaning of Section 417(e)(3)(B) of the
 7 Internal Revenue Code of 1986, as amended,
 8 as described in Rev. Rul. 2007-67 (and
 9 subsequent guidance),

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

11 b. Annuity Starting Date in the Period Beginning on July
 12 1, 2008 through December 31, 2008. If the annuity
 13 starting date of the member's form of benefit is in
 14 the period beginning on July 1, 2008 through December
 15 31, 2008, the actuarially equivalent straight life
 16 annuity is equal to the greatest of divisions (1), (2)
 17 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 each as set forth in subsection H
 24

1 of Section 49-100.9 of this title for adjusting
 2 benefits in the same form,

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

11 (3) 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:

15 (a) the adjusted first, second, and third
 16 segment rates under Section 417(e) (3) (C) and
 17 (D) of the Internal Revenue Code of 1986, as
 18 amended, applied under rules similar to the
 19 rules of Section 430(h) (2) (C) of the
 20 Internal Revenue Code of 1986, as amended,
 21 for the fourth calendar month preceding the
 22 plan year in which falls the annuity
 23 starting date for the distribution and the
 24 stability period is the successive period of

1 one (1) plan year which contains the annuity
 2 starting date for the distribution and for
 3 which the applicable interest rate remains
 4 constant, or as otherwise provided in the
 5 applicable guidance if the first day of the
 6 first plan year beginning after December 31,
 7 2007, does not coincide with the first day
 8 of the applicable stability period, and

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

13 c. Annuity Starting Date in Plan Years Beginning in 2006
 14 or 2007. If the annuity starting date of the member's
 15 form of benefit is in a plan year beginning in 2006 or
 16 2007, the actuarially equivalent straight life annuity
 17 is equal to the greatest of divisions (1), (2) and (3)
 18 ~~below~~ of this subparagraph:

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

1 of Section 49-100.9 of this title for adjusting
 2 benefits in the same form,

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

11 (3) 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:

15 (a) the rate of interest on thirty-year Treasury
 16 securities as specified by the Commissioner
 17 for the lookback month for the stability
 18 period specified below. The lookback month
 19 applicable to the stability period is the
 20 fourth calendar month preceding the first
 21 day of the stability period, as specified
 22 below. The stability period is the
 23 successive period of one (1) plan year which
 24 contains the annuity starting date for the

1 distribution and for which the applicable
2 interest rate remains constant, and

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

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

7 d. Annuity Starting Date in Plan Years Beginning in 2004
8 or 2005.

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

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

23 (b) a five and one-half percent (5.5%) interest
24 rate assumption and the applicable mortality

1 table described in Revenue Ruling 2001-62
2 (or its successor for these purposes, if
3 applicable).

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

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

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

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

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

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

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

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

1 D. Adjustment of Dollar Limitation for Benefit Commencement

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

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

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

1 equivalent of the dollar limitation under subsection B
 2 of this section (adjusted under subsection C of this
 3 section for years of participation less than ten (10),
 4 if required) with actuarial equivalence computed using
 5 whichever of the following produces the smaller annual
 6 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 or
- 11 (2) a five percent (5%) interest rate assumption and
- 12 the applicable mortality table as described in
- 13 Revenue Ruling 2001-62 (or its successor for
- 14 these purposes, if applicable).

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

- 16 (1) System Does Not Have Immediately Commencing
- 17 Straight Life Annuity Payable at Both Sixty-two
- 18 (62) Years of Age and the Age of Benefit
- 19 Commencement.

- 20 (a) If the annuity starting date for the
- 21 member's benefit is prior to sixty-two (62)
- 22 years of age and occurs in the limitation
- 23 year beginning on January 1, 2008, and the
- 24 System does not have an immediately

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

22 (b) If the annuity starting date for the
23 member's benefit is prior to sixty-two (62)
24 years of age and occurs in a limitation year

1 beginning on or after January 1, 2009, and
2 the System does not have an immediately
3 commencing straight life annuity payable at
4 both sixty-two (62) years of age and the age
5 of benefit commencement, the dollar
6 limitation for the member's annuity starting
7 date is the annual amount of a benefit
8 payable in the form of a straight life
9 annuity commencing at the member's annuity
10 starting date that is the actuarial
11 equivalent of the dollar limitation under
12 subsection B of this section (adjusted under
13 subsection C of this section for years of
14 participation less than ten (10), if
15 required) with actuarial equivalence
16 computed using a five percent (5%) interest
17 rate assumption and the applicable mortality
18 table within the meaning of Section
19 417(e) (3) (B) of the Internal Revenue Code of
20 1986, as amended, as described in Revenue
21 Ruling 2007-67 (and subsequent guidance)
22 (and expressing the member's age based on
23 completed calendar months as of the annuity
24 starting date).

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

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

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

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

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

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

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

6 (a) If the annuity starting date for the
7 member's benefit is after sixty-five (65)
8 years of age and occurs in the limitation
9 year beginning on January 1, 2008, and the
10 System does not have an immediately
11 commencing straight life annuity payable at
12 both sixty-five (65) years of age and the
13 age of benefit commencement, the dollar
14 limitation at the member's annuity starting
15 date is the annual amount of a benefit
16 payable in the form of a straight life
17 annuity commencing at the member's annuity
18 starting date that is the actuarial
19 equivalent of the dollar limitation under
20 subsection B of this section (adjusted under
21 subsection C of this section for years of
22 participation less than ten (10), if
23 required) with actuarial equivalence
24 computed using a five percent (5%) interest

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

8 (b) If the annuity starting date for the
9 member's benefit is after sixty-five (65)
10 years of age and occurs in a limitation year
11 beginning on or after January 1, 2009, and
12 the System does not have an immediately
13 commencing straight life annuity payable at
14 both sixty-five (65) years of age and the
15 age of benefit commencement, the dollar
16 limitation at the member's annuity starting
17 date is the annual amount of a benefit
18 payable in the form of a straight life
19 annuity commencing at the member's annuity
20 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

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

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

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

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 reaches 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 municipality do not exceed Ten Thousand Dollars (\$10,000.00)
 8 multiplied 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) years)
 12 with the participating municipality, and

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

14 2. The participating municipality (or a predecessor employer)
 15 has not at any time maintained a defined contribution plan in which
 16 the 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. For limitation years beginning on or after January 1, 1995,
10 subsection C of this section, paragraph 1 of subsection D of this
11 section, and the proration provided under subparagraphs a and b of
12 paragraph 1 of subsection E of this section, shall not apply to a
13 benefit paid under the System as a result of the member becoming
14 disabled by reason of personal injuries or sickness, or amounts
15 received by the beneficiaries, survivors or estate of the member as
16 a result of the death of the member.

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

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

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

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

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

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

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

24

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

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

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

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

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

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

24 B. As used in this section:

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

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

9 3. "Qualified health insurance premiums" ~~means~~ are premiums for
10 coverage for the eligible retired public safety officer, the
11 eligible retired public safety officer's spouse, and dependents, as
12 defined in Section 152 of the Internal Revenue Code of 1986, as
13 amended, by an accident or health ~~insurance~~ plan or a qualified
14 long-term care insurance contract, as defined in Section 7702B(b) of
15 the Internal Revenue Code of 1986, as amended. The health plan does
16 not have to be sponsored by the eligible retired public safety
17 officer's former participating municipality.

18 C. The Oklahoma Firefighters Pension and Retirement Board shall
19 promulgate such rules as are necessary to implement the provisions
20 of this section.

21 SECTION 5. It being immediately necessary for the preservation
22 of the public peace, health and safety, an emergency is hereby
23
24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3

4 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND FINANCIAL
5 SERVICES, dated 03/25/2013 - DO PASS, As Amended and Coauthored.

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