

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2
3 STATE OF OKLAHOMA

4 2nd Session of the 54th Legislature (2014)

5 COMMITTEE
6 SUBSTITUTE FOR
7 ENGROSSED
8 SENATE BILL NO. 2024

By: Barrington of the Senate

and

Armes of the House

9
10
11 COMMITTEE SUBSTITUTE

12 An Act relating to the Oklahoma Firefighters Pension
13 and Retirement System; amending 11 O.S. 2011,
14 Sections 29-102, 49-100.8, as amended by Section 48,
15 Chapter 304, O.S.L. 2012, 49-106.1, as last amended
16 by Section 4, Chapter 388, O.S.L. 2013, 49-106.2, as
17 last amended by Section 5, Chapter 388, O.S.L. 2013,
18 49-113.2, 49-117.1, as last amended by Section 8,
19 Chapter 388, O.S.L. 2013 and 49-135 (11 O.S. Supp.
20 2013, Sections 49-100.8, 49-106.1, 49-106.2 and 49-
21 117.1), which relate to administration of the
22 retirement system; modifying provisions related to
23 fire chief; modifying provisions related to
24 amortization period; modifying provisions related to
Deferred Retirement Option Plan; modifying provisions
related to death benefit; removing requirement that
System request an opinion from the Internal Revenue
Service for purposes of certain income tax treatment;
modifying provisions related to termination of
service prior to normal retirement date; clarifying
method for calculating certain retirement annuity;
modifying provisions related to age requirement for
purposes of retirement; and declaring an emergency.

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

2 SECTION 1. AMENDATORY 11 O.S. 2011, Section 29-102, is
3 amended to read as follows:

4 Section 29-102. All cities having a paid fire department shall
5 have one full-time fire chief who shall supervise and administer the
6 fire department in accordance with the policies and procedures
7 prescribed by the governing body or by the city manager. The fire
8 department shall be under the direction and control of the fire
9 chief who shall not serve as fire chief and also as police chief,
10 city manager, mayor or any other position that impairs the ability
11 to perform the duties of a fire chief. The fire chief, whether
12 permanent or interim, of any paid municipal fire department shall
13 have had at least three (3) years' actual experience as a paid fire
14 fighter before assuming the position of fire chief. It shall be the
15 duty of the fire chief to file the appropriate activity report forms
16 with the Office of the State Fire Marshal in Oklahoma City on an
17 annual basis. The activity report forms shall be designed by the
18 State Fire Marshal and shall include, but not be limited to, the
19 amount of property and vehicle fire loss, types of fires,
20 inspections and investigations. The report shall include
21 notification of all fire-related civilian deaths and injuries in the
22 respective jurisdiction and of fire fighter deaths in the line of
23 duty and of fire fighter injuries in the line of duty requiring the
24 services of a hospital or physician or both.

1 SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-100.8, as
 2 amended by Section 48, Chapter 304, O.S.L. 2012 (11 O.S. Supp. 2013,
 3 Section 49-100.8), is amended to read as follows:

4 Section 49-100.8 The State Board shall certify to the Director
 5 of the Office of Management and Enterprise Services, the Speaker of
 6 the House of Representatives, and the President Pro Tempore of the
 7 Senate, on or before July 15 of each year, an actuarially determined
 8 estimate of the rate of contribution which will be required,
 9 together with all accumulated contributions and other assets of the
 10 System to pay by level-dollar payments all liabilities which shall
 11 exist or accrue pursuant to the provisions of the System, including
 12 amortization of the unfunded accrued liability over a period of not
 13 to exceed thirty (30) years beginning July 1, ~~2003~~ 2014.

14 SECTION 3. AMENDATORY 11 O.S. 2011, Section 49-106.1, as
 15 last amended by Section 4, Chapter 388, O.S.L. 2013 (11 O.S. Supp.
 16 2013, Section 49-106.1), is amended to read as follows:

17 Section 49-106.1 A. In lieu of terminating employment and
 18 accepting a service retirement pension pursuant to Sections 49-101
 19 and 49-106 of this title, any member of the Oklahoma Firefighters
 20 Pension and Retirement System serving as an active firefighter in a
 21 fire department of a participating municipality who has not less
 22 than twenty (20) years of creditable service, or any member of the
 23 Oklahoma Firefighters Pension and Retirement System whose first
 24 employment with a participating employer of the System occurs on or

1 after November 1, 2013, and who has not less than twenty-two (22)
2 years of creditable service and who is eligible to receive a service
3 retirement pension may elect to participate in the Oklahoma
4 Firefighters Deferred Option Plan and defer the receipts of benefits
5 in accordance with the provisions of this section.

6 B. For purposes of this section, creditable service shall
7 include service credit reciprocally recognized pursuant to Sections
8 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2
9 of this title but for eligibility purposes only.

10 C. The duration of participation in the Oklahoma Firefighters
11 Deferred Option Plan for active firefighters shall not exceed five
12 (5) years. Participation in the Oklahoma Firefighters Deferred
13 Option Plan must begin the first day of a month and end on the last
14 day of a month. At the conclusion of a member's participation in
15 the Oklahoma Firefighters Deferred Option Plan, the member shall
16 terminate employment with all participating municipalities as a
17 firefighter, and shall start receiving the member's accrued monthly
18 retirement benefit from the System. Such a member may be reemployed
19 by a participating municipality but only in a position not covered
20 under the System, and receive in-service distributions of such
21 member's accrued monthly retirement benefit from the System.

22 D. When a member begins participation in the Oklahoma
23 Firefighters Deferred Option Plan, the contribution of the member
24 shall cease. The employer contributions shall continue to be paid

1 in accordance with subsection B of Section 49-122 of this title.
2 Employer contributions for members who elect the Oklahoma
3 Firefighters Deferred Option Plan shall be credited equally to the
4 Oklahoma Firefighters Pension and Retirement System and to the
5 member's Oklahoma Firefighters Deferred Option Plan account. The
6 monthly retirement benefits that would have been payable had the
7 member elected to cease employment and receive a service retirement
8 shall be paid into the member's Oklahoma Firefighters Deferred
9 Option Plan account.

10 E. 1. A member who participates in this plan shall be eligible
11 to receive cost-of-living increases.

12 2. A member who participates in this plan shall earn interest
13 at a rate of two percentage points below the rate of return of the
14 investment portfolio of the System, but no less than the actuarial
15 assumed interest rate as certified by the actuary in the yearly
16 evaluation report of the actuary. The interest shall be credited to
17 the individual account balance of the member on an annual basis.

18 3. Effective November 1, 2013, the Oklahoma Firefighters
19 Deferred Option Plan account for a member whose first service with a
20 participating municipality of the System occurs on or after November
21 1, 2013, and who participates for the first time in the Oklahoma
22 Firefighters Deferred Option Plan on or after November 1, 2013, and
23 has completed active participation in the Oklahoma Firefighters
24 Deferred Option Plan, shall earn interest at a rate equal to the

1 actual rate of return of the investment portfolio of the System,
2 less one (1) percentage point to offset administrative costs of the
3 System as determined by the System.

4 F. A member in the plan shall receive, at the option of the
5 member, a lump-sum payment from the account equal to the payments to
6 the account or an annuity based upon the account of the member or
7 may elect any other method of payment if approved by the Board of
8 Trustees. If a member becomes so physically or mentally disabled
9 while in, or in consequence of, the performance of his or her duty
10 as to prevent the effective performance of his or her duties that
11 the State Board approves an in-line-of-duty disability pension, the
12 payment from the account shall be an in-line-of-duty disability
13 payment. Notwithstanding any other provision contained herein to
14 the contrary, commencement of distributions under the Oklahoma
15 Firefighters Deferred Option Plan shall be no later than the time as
16 set forth in subsection B of Section 49-106 of this title and a
17 member whose first service with a participating municipality of the
18 System occurs on or after November 1, 2013, and who participates for
19 the first time in the Oklahoma Firefighters Deferred Option Plan on
20 or after November 1, 2013, must receive a distribution of the entire
21 remaining balance in the member's Oklahoma Firefighters Deferred
22 Option Plan account no later than April 1 of the calendar year
23 following the later of:
24

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

3 2. The actual retirement date of the member.

4 G. If a member dies while maintaining an account balance in the
5 plan the System shall pay to the designated recipient or recipients
6 of the member, or if there is no designated recipient or if the
7 designated recipient predeceases the member, to the spouse of the
8 member, or if there is no spouse or if the spouse predeceases the
9 member, to the estate of the member a lump-sum payment equal to the
10 account balance of the member. If such member was receiving, or
11 eligible to receive, an in-line-of-duty disability pension at the
12 time of his or her death, payment of the account balance shall be an
13 in-line-of-duty disability payment. If a designated recipient is
14 the surviving spouse of the member, the surviving spouse shall
15 receive his or her portion of the account balance of the member
16 pursuant to subsection F of this section. The surviving spouse,
17 whether or not he or she is a designated recipient of the member,
18 may elect to receive his or her portion of the account balance of
19 the member in the same manner as was applicable to the member.

20 H. In lieu of participating in the Oklahoma Firefighters
21 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
22 this section, a member may elect to participate in the Oklahoma
23 Firefighters Deferred Option Plan pursuant to this subsection as
24 follows:

1 1. For purposes of this subsection and subsection I of this
2 section, the following definitions shall apply:

3 a. "back drop date" means the member's normal retirement
4 date or the date five (5) years before the member
5 elects to participate in the Oklahoma Firefighters
6 Deferred Option Plan, whichever date is later,

7 b. "termination date" means the date the member elects to
8 participate in the Oklahoma Firefighters Deferred
9 Option Plan pursuant to this subsection, and the date
10 the member terminates employment with all
11 participating municipalities as an active firefighter,

12 c. "earlier attained credited service" means the credited
13 service earned by a member as of the back drop date,
14 and

15 d. "deferred benefit balance" means all monthly
16 retirement benefits that would have been payable had
17 the member elected to cease employment on the back
18 drop date and receive a service retirement from the
19 back drop date to the termination date, all the
20 member's contributions and one-half (1/2) of the
21 employer contributions from the back drop date to the
22 termination date, with interest based on how the
23 benefit would have accumulated on a compound annual
24 basis as if the member had participated in the

1 Oklahoma Firefighters Deferred Option Plan pursuant to
2 subsections A, B, C, D, E and F of this section from
3 the back drop date to the termination date; and

4 2. At the termination date, the monthly pension benefit shall
5 be determined based on earlier attained credited service and on the
6 final average salary as of the back drop date. The member's
7 individual deferred option account shall be credited with an amount
8 equal to the deferred benefit balance, the member shall terminate
9 employment with all participating municipalities as a firefighter,
10 and shall start receiving the member's accrued monthly retirement
11 benefit from the System. Such a member may be reemployed by a
12 participating municipality but only in a position not covered under
13 the System, and receive in-service distributions of such member's
14 accrued monthly retirement benefit from the System. The provisions
15 of subsections B, C, E, F and G of this section shall apply to this
16 subsection. A member shall not participate in the Oklahoma
17 Firefighters Deferred Option Plan pursuant to this subsection if the
18 member has elected to participate in the Oklahoma Firefighters
19 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
20 this section.

21 I. Certain surviving spouses and members shall be eligible to
22 participate in the Oklahoma Firefighters Deferred Option Plan
23 pursuant to subsection H of this section and this subsection.
24

1 1. For purposes of this subsection, the following definitions
 2 shall apply:

- 3 a. "back drop election date" means the date the surviving
 4 spouse or member elects to commence participation in
 5 the Oklahoma Firefighters Deferred Option Plan
 6 pursuant to subsection H of this section and this
 7 subsection,
- 8 b. "interest" means the actuarial assumed interest rate
 9 as certified by the actuary in the yearly evaluation
 10 report of the actuary,
- 11 c. "monthly adjustment amount" means the difference
 12 between the monthly pension prior to the back drop
 13 election and the adjusted monthly pension due to the
 14 back drop election,
- 15 d. "back drop pension adjustment amount" means the sum of
 16 all the monthly adjustment amounts adjusted for
 17 interest from the pension commencement date to the
 18 back drop election date, and
- 19 e. "deferred benefit balance adjustment amount" means the
 20 interest on the deferred benefit balance from the
 21 pension commencement date to the back drop election
 22 date.

23 2. If a member who has more than twenty (20) years of
 24 creditable service and is eligible to receive a service, or a member

1 of the Oklahoma Firefighters Pension and Retirement System whose
2 first employment with a participating employer of the System occurs
3 on or after November 1, 2013, and such member has more than twenty-
4 two (22) years of creditable service, retirement pension dies on or
5 after June 4, 2007, and prior to terminating employment, the
6 member's surviving spouse shall be eligible to elect to receive a
7 benefit determined as if the member had elected to participate in
8 the Oklahoma Firefighters Deferred Option Plan in accordance with
9 subsection H of this section on the day immediately preceding such
10 member's death. Prior to July 1, 2010, the surviving spouse must
11 make any such election within one (1) year from the date of the
12 member's death. Effective July 1, 2010, the surviving spouse must
13 make any such election within ninety (90) days from the date of the
14 member's death. If on or after June 4, 2007, such election is made,
15 the monthly pension such surviving spouse is entitled to receive
16 shall be adjusted in accordance with the provisions of subsection H
17 of this section to account for the member's participation in the
18 Oklahoma Firefighters Deferred Option Plan. The surviving spouse
19 may only make this election if the member has not previously elected
20 to participate in the Oklahoma Firefighters Deferred Option Plan.
21 For purposes of this election, the surviving spouse must have been
22 married to the firefighter for the thirty (30) continuous months
23 preceding the firefighter's death; provided, the surviving spouse of
24 a member who died while in, or as a consequence of, the performance

1 of the member's duty for a participating municipality shall not be
2 subject to the marriage limitation for this election.

3 3. If a member has more than twenty (20) years of creditable
4 service, or a member of the Oklahoma Firefighters Pension and
5 Retirement System whose first employment with a participating
6 employer of the System occurs on or after November 1, 2013, and such
7 member has more than twenty-two (22) years of creditable service and
8 is eligible to receive a service retirement pension, and is eligible
9 for a retirement for disability monthly pension pursuant to Section
10 49-109 of this title on or after June 4, 2007, such member shall be
11 eligible to elect to receive a benefit determined as if the member
12 had elected to participate in the Oklahoma Firefighters Deferred
13 Option Plan, in accordance with subsection H of this section, on the
14 day immediately preceding the date of the member's disability
15 retirement, provided such election is made within two (2) years from
16 the date of the member's disability retirement. The disability
17 monthly pension such member is receiving, or entitled to receive,
18 shall be adjusted in accordance with the provisions of subsection H
19 of this section to account for the member's participation in the
20 Oklahoma Firefighters Deferred Option Plan. The deferred benefit
21 balance such member is entitled to receive shall be reduced by the
22 back drop pension adjustment amount and increased by the deferred
23 benefit balance adjustment amount. The member may only make a back
24 drop election if the deferred benefit balance after the adjustment

1 described in this paragraph is greater than Zero Dollars (\$0.00).
2 The member may only make this election if the member has not
3 previously elected to participate in the Oklahoma Firefighters
4 Deferred Option Plan.

5 4. If a member has more than twenty (20) years of creditable
6 service, or a member of the Oklahoma Firefighters Pension and
7 Retirement System whose first employment with a participating
8 employer of the System occurs on or after November 1, 2013, and such
9 member has more than twenty-two (22) years of creditable service and
10 is eligible to receive a service retirement pension, and filed a
11 grievance for wrongful termination occurring on or after June 4,
12 2007, or is not a member of a collective bargaining organization as
13 a firefighter, is involuntarily terminated and is seeking to have
14 his or her position as a firefighter reinstated through a legal
15 process, but is not reinstated as an active member, such member
16 shall be eligible to elect to receive a benefit determined as if the
17 member had elected to participate in the Oklahoma Firefighters
18 Deferred Option Plan in accordance with subsection H of this section
19 on the day immediately preceding the date of the member's
20 termination. Such election must be made within two (2) years from
21 the date of the member's termination as an active member and, if the
22 member's case pertaining to the member's termination is on appeal to
23 a court of competent jurisdiction, within such period set by the
24 State Board in its sole discretion. The monthly pension such member

1 is receiving, or entitled to receive, shall be adjusted in
2 accordance with the provisions of subsection H of this section to
3 account for the member's participation in the Oklahoma Firefighters
4 Deferred Option Plan. The deferred benefit balance such member is
5 entitled to receive shall be reduced by the back drop pension
6 adjustment amount and increased by the deferred benefit balance
7 adjustment amount. The member may only make a back drop election if
8 the deferred benefit balance after the adjustment described in this
9 paragraph is greater than Zero Dollars (\$0.00). The member may only
10 make this election if the member has not previously elected to
11 participate in the Oklahoma Firefighters Deferred Option Plan.

12 5. Subparagraphs d and e of paragraph 1 and paragraphs 3 and 4
13 of this subsection are effective June 4, 2007, provided the Internal
14 Revenue Service issues a favorable determination letter for the
15 System which includes the provisions of such subparagraphs and
16 paragraphs without modification or as modified to conform to any
17 changes required by the Internal Revenue Service as part of its
18 determination letter review process. In the event the Internal
19 Revenue Service does not issue such a determination letter which
20 includes the provisions of such subparagraphs or paragraphs without
21 modification or as modified to conform to any changes required by
22 the Internal Revenue Service as part of its determination letter
23 review process, then subparagraphs d and e of paragraph 1 and
24

1 paragraphs 3 and 4 of this subsection shall be repealed effective
2 June 4, 2007.

3 SECTION 4. AMENDATORY 11 O.S. 2011, Section 49-106.2, as
4 last amended by Section 5, Chapter 388, O.S.L. 2013 (11 O.S. Supp.
5 2013, Section 49-106.2), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

- 19 a. a nondecreasing annuity (other than a straight life
20 annuity) payable for a period of not less than the
21 life of the member (or, in the case of a qualified
22 preretirement survivor annuity, the life of the
23 surviving spouse), or
24

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

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

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

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

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

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

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

4 d. Limitation Year Beginning On January 1, 2008. For the
5 limitation year beginning on January 1, 2008, the
6 actuarially equivalent straight life annuity is equal
7 to the greater of:

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

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

21 e. Limitation Years Beginning On or After July 1, 2008.
22 For limitation years beginning on or after July 1,
23 2008, the actuarially equivalent straight life annuity
24 is equal to the greater of:

- 1 (1) the annual amount of the straight life annuity,
- 2 if any, payable to the member under the System
- 3 commencing at the same annuity starting date as
- 4 the member's form of benefit, and
- 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 percent (5%) interest rate assumption and the
- 10 applicable mortality table within the meaning of
- 11 Section 417(e) (3) (B) of the Internal Revenue Code
- 12 of 1986, as amended, as described in Revenue
- 13 Ruling 2007-67 (and subsequent guidance) for that
- 14 annuity starting date.

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

- 22 a. Annuity Starting Date on or after January 1, 2009. If
- 23 the annuity starting date of the member's form of
- 24 benefit is in the period beginning on January 1, 2009

1 through June 30, 2009, or in a plan year beginning
2 after June 30, 2009, the actuarially equivalent
3 straight life annuity is equal to the greatest of
4 divisions (1), (2) and (3) of this subparagraph:

5 (1) 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 the
9 interest rate and the mortality table or other
10 tabular factor as set forth in the most recent
11 actuarial valuation referenced in subsection H of
12 Section 49-100.9 of this title prior to September
13 1, 2011, and effective September 1, 2011, in
14 subsection L of this section for adjusting
15 benefits in the same form,

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 and one-half percent (5.5%) interest rate
21 assumption and the applicable mortality table
22 within the meaning of Section 417(e)(3)(B) of the
23 Internal Revenue Code of 1986, as amended, as
24

1 described in Revenue Ruling 2007-67 (and
2 subsequent guidance), and

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

7 (a) the adjusted first, second, and third
8 segment rates under Section 417(e)(3)(C) and
9 (D) of the Internal Revenue Code of 1986, as
10 amended, applied under rules similar to the
11 rules of Section 430(h)(2)(C) of the
12 Internal Revenue Code of 1986, as amended,
13 for the fourth calendar month preceding the
14 plan year in which falls the annuity
15 starting date for the distribution and the
16 stability period is the successive period of
17 one plan year which contains the annuity
18 starting date for the distribution and for
19 which the applicable interest rate remains
20 constant, or as otherwise provided in the
21 applicable guidance if the first day of the
22 first plan year beginning after December 31,
23 2007, does not coincide with the first day
24 of the applicable stability period, and

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

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

7 b. Annuity Starting Date in the Period Beginning on July
8 1, 2008 through December 31, 2008. If the annuity
9 starting date of the member's form of benefit is in
10 the period beginning on July 1, 2008 through December
11 31, 2008, the actuarially equivalent straight life
12 annuity is equal to the greatest of divisions (1), (2)
13 and (3) of this subparagraph:

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

22 (2) the annual amount of the straight life annuity
23 commencing at the same annuity starting date that
24 has the same actuarial present value as the

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

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

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

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

8 c. Annuity Starting Date in Plan Years Beginning in 2006
9 or 2007. If the annuity starting date of the member's
10 form of benefit is in a plan year beginning in 2006 or
11 2007, the actuarially equivalent straight life annuity
12 is equal to the greatest of divisions (1), (2) and (3)
13 of this subparagraph:

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

22 (2) the annual amount of the straight life annuity
23 commencing at the same annuity starting date that
24 has the same actuarial present value as the

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

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

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

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

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

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

23 (2) If the annuity starting date of the member's
24 benefit is on or after the first day of the first

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

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

19 (b) 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 (1) plan year which
 5 contains the annuity starting date for
 6 the distribution and for which the
 7 applicable interest rate remains
 8 constant, and

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

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

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

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

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

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

1 before sixty-two (62) years of age, the dollar limitation under
2 subsection B of this section shall be adjusted under paragraph 1 of
3 this subsection, as modified by paragraph 3 of this subsection, but
4 subject to paragraph 4 of this subsection. If the annuity starting
5 date is after sixty-five (65) years of age, the dollar limitation
6 under subsection B of this section shall be adjusted under paragraph
7 2 of this subsection, as modified by paragraph 3 of this subsection.

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

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

24

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

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

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

10 (1) System Does Not Have Immediately Commencing
 11 Straight Life Annuity Payable at Both Sixty-two
 12 (62) Years of Age and the Age of Benefit
 13 Commencement.

14 (a) If the annuity starting date for the
 15 member's benefit is prior to sixty-two (62)
 16 years of age and occurs in the limitation
 17 year beginning on January 1, 2008, and the
 18 System does not have an immediately
 19 commencing straight life annuity payable at
 20 both sixty-two (62) years of age and the age
 21 of benefit commencement, the dollar
 22 limitation for the member's annuity starting
 23 date is the annual amount of a benefit
 24 payable in the form of a straight life

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

16 (b) If the annuity starting date for the
17 member's benefit is prior to sixty-two (62)
18 years of age and occurs in a limitation year
19 beginning on or after January 1, 2009, and
20 the System does not have an immediately
21 commencing straight life annuity payable at
22 both sixty-two (62) years of age and the age
23 of benefit commencement, the dollar
24 limitation for 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 within the meaning of Section
13 417(e) (3) (B) of the Internal Revenue Code of
14 1986, as amended, as described in Revenue
15 Ruling 2007-67 (and subsequent guidance)
16 (and expressing the member's age based on
17 completed calendar months as of the annuity
18 starting date).

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

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

18 (3) Effective for limitation years commencing on or
19 after January 1, 2014, notwithstanding any other
20 provision of paragraph 1 of this subsection, the
21 age-adjusted dollar limit applicable to a member
22 shall not decrease on account of an increase in
23 age or the performance of additional services.
24

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 and the dollar limitation
24 under subsection B of this section (adjusted

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

1 3. Notwithstanding the other requirements of this subsection,
2 ~~no adjustment shall be made to the dollar limitation under~~
3 ~~subsection B of this section~~ in adjusting the dollar limitation for
4 the member's annuity starting date under subparagraph a of paragraph
5 1 of this subsection, division (1) of subparagraph b of paragraph 1
6 of this subsection, subparagraph a of paragraph 2 of this
7 subsection, or division (1) of subparagraph b of paragraph 2 of this
8 subsection, no adjustment shall be made to reflect the probability
9 of a member's death between the annuity starting date and sixty-two
10 (62) years of age, or between sixty-five (65) years of age and the
11 annuity starting date, as applicable, if benefits are not forfeited
12 upon the death of the member prior to the annuity starting date. To
13 the extent benefits are forfeited upon death before the annuity
14 starting date, such an adjustment shall be made. For this purpose,
15 no forfeiture shall be treated as occurring upon the member's death
16 if the System does not charge members for providing a qualified
17 preretirement survivor annuity, as defined in Section 417(c) of the
18 Internal Revenue Code of 1986, as amended, upon the member's death.

19 4. Notwithstanding any other provision to the contrary, for
20 limitation years beginning on or after January 1, 1997, if payment
21 begins before the member reaches sixty-two (62) years of age, the
22 reductions in the limitations in this subsection shall not apply to
23 a member who is a "qualified participant" as defined in Section
24 415(b) (2) (H) of the Internal Revenue Code of 1986, as amended.

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

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

- 11 a. the numerator of which is the member's number of
12 credited years (or part thereof, but not less than one
13 (1) year) of service (not to exceed ten (10) years)
14 with the participating municipality, and
15 b. the denominator of which is ten (10); and

16 2. The participating municipality (or a predecessor employer)
17 has not at any time maintained a defined contribution plan in which
18 the member participated (for this purpose, mandatory employee
19 contributions under a defined benefit plan, individual medical
20 accounts under Section 401(h) of the Internal Revenue Code of 1986,
21 as amended, and accounts for postretirement medical benefits
22 established under Section 419A(d) (1) of the Internal Revenue Code of
23 1986, as amended, are not considered a separate defined contribution
24 plan).

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

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

19 H. If a member purchases service credit under the System, which
20 qualifies as "permissive service credit" pursuant to Section 415(n)
21 of the Internal Revenue Code of 1986, as amended, the limitations of
22 Section 415 of the Internal Revenue Code of 1986, as amended, may be
23 met by either:
24

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

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

6 I. If a member repays to the System any amounts refunded from
7 the System because of the member's prior termination or any other
8 amount which qualifies as a repayment under Section 415(k)(3) of the
9 Internal Revenue Code of 1986, such repayment shall not be taken
10 into account for purposes of Section 415 of the Internal Revenue
11 Code of 1986, as amended, pursuant to Section 415(k)(3) of the
12 Internal Revenue Code of 1986, as amended.

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

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

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

1 SECTION 5. AMENDATORY 11 O.S. 2011, Section 49-113.2, is
2 amended to read as follows:

3 Section 49-113.2 A. Upon the death of an active or retired
4 member, the System shall pay to the surviving spouse of the member
5 if the surviving spouse has been married to the firefighter for
6 thirty (30) continuous months preceding the member's death provided
7 a surviving spouse of a member who died while in, or as a
8 consequence of, the performance of the member's duty for a
9 participating municipality shall not be subject to the marriage
10 limitation for survivor benefits, or if there is no surviving spouse
11 or no surviving spouse meeting the requirements of this section, the
12 System shall pay to the designated recipient or recipients of the
13 member, or if there is no designated recipient or if the designated
14 recipient predeceases the member, to the estate of the member, the
15 sum of Four Thousand Dollars (\$4,000.00) for those active or retired
16 members who died prior to July 1, 1999. For those active or retired
17 members who die on or after July 1, 1999, the sum shall be Five
18 Thousand Dollars (\$5,000.00). ~~The benefit payable pursuant to this~~
19 ~~subsection shall be deemed, for purposes of federal income taxation,~~
20 ~~as life insurance proceeds and not as a death benefit if the~~
21 ~~Internal Revenue Service approves this provision pursuant to a~~
22 ~~private letter ruling request which shall be submitted by the board~~
23 ~~of trustees of the System for that purpose.~~

24

1 B. Upon the death of a member who dies leaving no living
2 designated recipient or having designated the member's estate as
3 recipient, the System may pay any applicable death benefit which may
4 be subject to probate, in an amount of Five Thousand Dollars
5 (\$5,000.00), to the heir or heirs of the member without the
6 intervention of a probate court or probate procedures.

7 C. Before any applicable probate procedure may be waived, the
8 System must be in receipt of the member's proof of death and the
9 following documents from those persons claiming to be the legal
10 heirs of the deceased member:

11 1. The member's last will and testament if available;

12 2. An affidavit or affidavits of heirship which must contain:

13 a. the names and signatures of all claiming heirs to the
14 deceased member's estate including the claiming heirs'
15 names, relationship to the deceased member, current
16 addresses and current telephone numbers,

17 b. a statement or statements by the claiming heirs that no
18 application or petition for the appointment of a
19 personal representative is pending or has been granted
20 in any jurisdiction,

21 c. a statement that the value of the deceased member's
22 entire probate estate, less liens and encumbrances,
23 does not exceed Ten Thousand Dollars (\$10,000.00),
24 including the payment of benefits from the System, and

1 d. a statement by each individual claiming heir
2 identifying the amount of personal property that the
3 heir is claiming from the System or the amount the heir
4 agrees to be paid to another person, and that the heir
5 has been notified of, is aware of and consents to the
6 identified claims of all the other claiming heirs of
7 the deceased member pending with the System;

8 3. A written agreement or agreements signed by all claiming
9 heirs of the deceased member which provides that the claiming heirs
10 release, discharge and hold harmless the System from any and all
11 liability, obligations and costs which it may incur as a result of
12 making a payment to any of the deceased member's heirs;

13 4. A corroborating affidavit from an individual other than a
14 claiming heir, who was familiar with the affairs of the deceased
15 member; and

16 5. Proof that funeral and burial expenses of the deceased
17 member have been paid or provided for.

18 D. The System shall retain complete discretion in determining
19 which requests for probate waiver may be granted or denied, for any
20 reason. Should the System have any questions as to the validity of
21 any document presented by the claiming heirs, or as to any statement
22 or assertion contained therein, the probate requirements provided
23 for in Section 1 et seq. of Title 58 of the Oklahoma Statutes shall
24 not be waived.

1 E. After paying any death benefits to any claiming heirs as
2 provided pursuant to this section, the System is discharged and
3 released from any and all liability, obligation and costs to the
4 same extent as if the System had paid a personal representative
5 holding valid letters testamentary issued by a court of competent
6 jurisdiction. The System is not required to inquire into the truth
7 of any matter specified in this section or into the payment of any
8 estate tax liability.

9 F. The provisions of this section shall not be subject to
10 qualified domestic orders as provided in subsection B of Section 49-
11 126 of this title.

12 G. 1. For purposes of this section, if a person makes a
13 qualified disclaimer with respect to the death benefit provided for
14 in subsection A of this section, this section shall apply with
15 respect to such death benefit as if the death benefit had never been
16 transferred to such person.

17 2. For purposes of this subsection, the term "qualified
18 disclaimer" means an irrevocable and unqualified refusal by a
19 person, including but not limited to the surviving spouse of the
20 deceased member, to accept an interest in the death benefit provided
21 for in subsection A of this section, but only if:

22 a. such refusal is in writing,
23
24

- b. such writing is received by the System not later than the date which is nine (9) months after the date of death of the deceased member,
- c. such person has not accepted the death benefit provided for in subsection A of this section, and
- d. as a result of such refusal, the death benefit provided for in subsection A of this section passes without any direction on the part of the person making the disclaimer and passes first, to the organization providing funeral and burial services for the deceased member or, if the cost of the funeral and burial services for the deceased member has already been paid, to the person or persons other than the person making the disclaimer as further provided for in this section.

SECTION 6. AMENDATORY 11 O.S. 2011, Section 49-117.1, as last amended by Section 8, Chapter 388, O.S.L. 2013 (11 O.S. Supp. 2013, Section 49-117.1), is amended to read as follows:

Section 49-117.1 A. A member who terminates service before normal retirement date, other than by death or disability shall, upon application filed with the State Board, be refunded from the Fund an amount equal to the accumulated contributions the member has made to the Fund, but excluding any interest or any amount contributed by the municipality or state.

1 B. If a member, whose first employment with a participating
2 employer of the System occurs prior to November 1, 2013, has
3 completed ten (10) years of credited service at the date of
4 termination, the member may elect a vested benefit in lieu of
5 receiving the member's accumulated contributions.

6 C. If a member whose first employment with a participating
7 employer of the System occurs on or after November 1, 2013, has
8 completed eleven (11) years of credited service at the date of
9 termination, the member may elect a vested benefit in lieu of
10 receiving the member's accumulated contributions.

11 D. If the member who has completed ten (10) or more years of
12 credited service as prescribed by subsection B of this section
13 elects the vested benefit, the member shall be entitled to a monthly
14 retirement annuity commencing on the date the member reaches fifty
15 (50) years of age or the date the member would have had twenty (20)
16 years of credited service had the member's employment continued
17 uninterrupted, whichever is later. The annual amount of such
18 retirement annuity shall be equal to two and one-half percent (2
19 1/2%) of the annualized final average salary multiplied by the
20 number of years of credited service not to exceed thirty (30) years.
21 The death benefits provided for in Section 49-113.2 of this title
22 shall not apply to any member retiring under the provisions of this
23 section.

1 E. If the member who has completed eleven (11) or more years of
2 credited service as prescribed by subsection C of this section
3 elects the vested benefit, the member shall be entitled to a monthly
4 retirement annuity commencing on the date the member reaches fifty
5 (50) years of age or the date the member would have had twenty-two
6 (22) years of credited service had the member's employment continued
7 uninterrupted, whichever is later. The annual amount of such
8 retirement annuity shall be equal to two and one-half percent (2
9 1/2%) of the annualized final average salary multiplied by the
10 number of years of credited service not to exceed thirty (30) years.
11 The death benefits provided for in Section 49-113.2 of this title
12 shall not apply to any member retiring under the provisions of this
13 section.

14 F. If a member who terminates employment and elects a vested
15 benefit dies prior to being eligible to receive benefits, the
16 member's beneficiary shall be entitled to the member's normal
17 monthly retirement benefit on the date the deceased member would
18 have been eligible to receive the benefit.

19 G. If a member terminates employment and withdraws the member's
20 accumulated contributions and then subsequently rejoins the System,
21 he may pay to the System the sum of the accumulated contributions he
22 has withdrawn plus five percent (5%) annual interest from the date
23 of withdrawal and shall receive the same benefits as if he had never
24 withdrawn his contributions; however, effective January 1, 1991, the

1 rate of interest provided herein shall be ten percent (10%) per
2 annum.

3 H. Effective January 1, 2002, lump-sum payments for repayment
4 of any amounts received because of a member's prior termination with
5 interest may be repaid by a trustee-to-trustee transfer from a Code
6 Section 403(b) annuity, a governmental Code Section 457 plan, and/or
7 a Code Section 401(a) qualified plan.

8 I. A firefighter shall not be permitted to withdraw from the
9 System while employed as a firefighter in a participating
10 municipality.

11 SECTION 7. AMENDATORY 11 O.S. 2011, Section 49-135, is
12 amended to read as follows:

13 Section 49-135. No person shall be employed in a fire
14 department who has reached the age of forty-five (45) years, unless
15 it appears he or she shall become eligible for retirement at the age
16 of sixty-five (65) years, or at the age of sixty-seven (67) years
17 for a firefighter whose first service with a participating employer
18 of the System occurs on or after November 1, 2013, or unless he or
19 she be retired from a municipal fire department in the State of
20 Oklahoma. This section shall not apply to professional engineers,
21 or to persons employed as technical specialists on a temporary
22 basis. The State Board shall be authorized to establish the maximum
23 age, within the limits herein prescribed, over which an applicant
24 may not be considered for initial employment, but no person shall be

1 prohibited from making application for reemployment and having such
2 reemployment application considered merely because of his or her
3 age, provided that such person be under the age of forty-five (45)
4 years, and provided further, that such reemployment shall be with
5 the consent of the fire chief of such municipality.

6 SECTION 8. 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.

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COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND FINANCIAL SERVICES, dated 04/10/2014 - DO PASS, As Amended.