

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

SENATE BILL 1101

By: Barrington

AS INTRODUCED

An Act relating to the Oklahoma Firefighters Pension and Retirement System; amending 11 O.S. 2011, Section 29-114, which relates to municipal fire departments; modifying Internal Revenue Service ruling; amending 11 O.S. 2011, Section 49-100.1, as amended by Section 1, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2012, Section 49-100.1), which relates to firefighter pensions; modifying definition of eligible employer; amending 11 O.S. 2011, Section 49-106.1, which relates to firefighter pensions; modifying eligibility requirements for participation in the Oklahoma Firefighters Deferred Option Plan; amending 11 O.S. 2011, Section 49-106.2, as amended by Section 5, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2012, Section 49-106.2), which relates to firefighter pensions; adjusting benefits, modifying language; amending 11 O.S. 2011, Section 49-106.5, which relates to firefighter pensions; adjusting benefits; modifying language; and declaring an 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, on or after the effective date of this

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

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

10 Section 49-100.1. As used in this article:

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

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

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

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

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

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

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

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  
14 with an organized fire department or a any fire protection district  
15 with an organized fire department;

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

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

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

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

1 annual salary limit in effect for a calendar year applies to any  
2 period, not exceeding twelve (12) months, over which salary is  
3 determined ("determination period") beginning in such calendar year.  
4 If a determination period consists of fewer than twelve (12) months,  
5 the EGTRRA salary limit will be multiplied by a fraction, the  
6 numerator of which is the number of months in the determination  
7 period, and the denominator of which is twelve (12). For purposes  
8 of this subsection, a "Noneligible Member" is any member who first  
9 became a member during a plan year commencing on or after July 1,  
10 1996.

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

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

23 Effective June 9, 2010, any payments not described above shall  
24 not be considered gross salary if paid after severance from

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

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

17 Effective for years beginning after December 31, 2008, gross  
18 salary shall also include differential wage payments under Section  
19 414(u) (12) of the Internal Revenue Code of 1986, as amended;

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

23 16. "Beneficiary" means a member's surviving spouse or any  
24 surviving children, including biological and adopted children, at



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

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

1 include any interest on the contributions of the member, interest on  
2 any amount contributed by the municipality or state and any amount  
3 contributed by the municipality or state; and

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

7 SECTION 3. AMENDATORY 11 O.S. 2011, Section 49-106.1, is  
8 amended to read as follows:

9 Section 49-106.1. A. ~~In lieu of terminating employment and~~  
10 ~~accepting a service retirement pension pursuant to Sections 49-101~~  
11 ~~and 49-106 of this title, any~~ Any member of the Oklahoma  
12 Firefighters Pension and Retirement System serving as an active  
13 firefighter in fire department of a participating municipality who  
14 has not less than twenty (20) years of creditable service and who is  
15 eligible to receive a service retirement pension may elect to  
16 participate in the Oklahoma Firefighters Deferred Option Plan and  
17 defer the receipts of ~~benefits~~ distributions in accordance with the  
18 provisions of this section.

19 B. For purposes of this section, creditable service shall  
20 include service credit reciprocally recognized pursuant to Sections  
21 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2  
22 of this title but for eligibility purposes only.

23 C. The duration of participation in the Oklahoma Firefighters  
24 Deferred Option Plan for active firefighters shall not exceed five

1 (5) years. Participation in the Oklahoma Firefighters Deferred  
2 Option Plan must begin the first day of a month and end on the last  
3 day of a month. At the conclusion of a member's participation in  
4 the Oklahoma Firefighters Deferred Option Plan, the member shall  
5 terminate employment with all participating municipalities as a  
6 firefighter, and shall start receiving the member's accrued monthly  
7 retirement benefit from the System. Such a member may be reemployed  
8 by a participating municipality but only in a position not covered  
9 under the System, and receive in-service distributions of such  
10 member's accrued monthly retirement benefit from the System.

11 D. When a member begins participation in the Oklahoma  
12 Firefighters Deferred Option Plan, the contribution of the member  
13 shall cease. The employer contributions shall continue to be paid  
14 in accordance with subsection B of Section 49-122 of this title.  
15 Employer contributions for members who elect the Oklahoma  
16 Firefighters Deferred Option Plan shall be credited equally to the  
17 Oklahoma Firefighters Pension and Retirement System and to the  
18 member's Oklahoma Firefighters Deferred Option Plan account. The  
19 monthly ~~retirement benefits~~ distributions that would have been  
20 payable had the member elected to cease employment and receive a  
21 service retirement shall be paid into the member's Oklahoma  
22 Firefighters Deferred Option Plan account.

23 E. 1. A member who participates in this plan shall be eligible  
24 to receive cost of living increases.

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

7        F. A member in the plan shall receive, at the option of the  
8 member, a lump sum payment from the account equal to the payments to  
9 the account or an annuity based upon the account of the member or  
10 may elect any other method of payment if approved by the Board of  
11 Trustees. If a member becomes so physically or mentally disabled  
12 while in, or in consequence of, the performance of his or her duty  
13 as to prevent the effective performance of his or her duties that  
14 the State Board approves an in line of duty disability pension, the  
15 payment from the account shall be an in line of duty disability  
16 payment. Notwithstanding any other provision contained herein to  
17 the contrary, commencement of distributions under the Oklahoma  
18 Firefighters Deferred Option Plan shall be no later than the time as  
19 set forth in subsection B of Section 49-106 of this title.

20        G. If a member dies while maintaining an account balance in the  
21 plan the System shall pay to the designated recipient or recipients  
22 of the member, or if there is no designated recipient or if the  
23 designated recipient predeceases the member, to the spouse of the  
24 member, or if there is no spouse or if the spouse predeceases the

1 member, to the estate of the member a lump sum payment equal to the  
2 account balance of the member. If such member was receiving, or  
3 eligible to receive, an in line of duty disability pension at the  
4 time of his or her death, payment of the account balance shall be an  
5 in line of duty disability payment. If a designated recipient is  
6 the surviving spouse of the member, the surviving spouse shall  
7 receive his or her portion of the account balance of the member  
8 pursuant to subsection F of this section. The surviving spouse,  
9 whether or not he or she is a designated recipient of the member,  
10 may elect to receive his or her portion of the account balance of  
11 the member in the same manner as was applicable to the member.

12 H. In lieu of participating in the Oklahoma Firefighters  
13 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of  
14 this section, a member may elect to participate in the Oklahoma  
15 Firefighters Deferred Option Plan pursuant to this subsection as  
16 follows:

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

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

23 b. "termination date" means the date the member elects to  
24 participate in the Oklahoma Firefighters Deferred

1 Option Plan pursuant to this subsection, and the date  
2 the member terminates employment with all  
3 participating municipalities as an active firefighter,  
4 c. "earlier attained credited service" means the credited  
5 service earned by a member as of the back drop  
6 date, and  
7 d. "deferred ~~benefit~~ distribution balance" means all  
8 monthly ~~retirement benefits~~ distributions that would  
9 have been payable had the member elected to cease  
10 employment on the back drop date and receive a service  
11 retirement from the back drop date to the termination  
12 date, all the member's contributions and one-half  
13 (1/2) of the employer contributions from the back drop  
14 date to the termination date, with interest based on  
15 how the ~~benefit~~ distribution would have accumulated on  
16 a compound annual basis as if the member had  
17 participated in the Oklahoma Firefighters Deferred  
18 Option Plan pursuant to subsections A, B, C, D, E and  
19 F of this section from the back drop date to the  
20 termination date; and

21 2. At the termination date, the monthly pension ~~benefit~~  
22 distribution shall be determined based on earlier attained credited  
23 service and on the final average salary as of the back drop date.  
24 The member's individual deferred option account shall be credited

1 with an amount equal to the deferred ~~benefit~~ distribution balance,  
2 the member shall terminate employment with all participating  
3 municipalities as a firefighter, and shall start receiving the  
4 member's accrued monthly retirement benefit from the System. Such a  
5 member may be reemployed by a participating municipality but only in  
6 a position not covered under the System, and receive in-service  
7 distributions of such member's accrued monthly retirement benefit  
8 from the System. The provisions of subsections B, C, E, F and G of  
9 this section shall apply to this subsection. A member shall not  
10 participate in the Oklahoma Firefighters Deferred Option Plan  
11 pursuant to this subsection if the member has elected to participate  
12 in the Oklahoma Firefighters Deferred Option Plan pursuant to  
13 subsections A, B, C, D, E and F of this section.

14 I. Certain surviving spouses and members shall be eligible to  
15 participate in the Oklahoma Firefighters Deferred Option Plan  
16 pursuant to subsection H of this section and this subsection.

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

19 a. "back drop election date" means the date the surviving  
20 spouse or member elects to commence participation in  
21 the Oklahoma Firefighters Deferred Option Plan  
22 pursuant to subsection H of this section and this  
23 subsection,  
24

1           b. "interest" means the actuarial assumed interest rate  
2           as certified by the actuary in the yearly evaluation  
3           report of the actuary,

4           c. "monthly adjustment amount" means the difference  
5           between the monthly pension prior to the back drop  
6           election and the adjusted monthly pension due to the  
7           back drop election,

8           d. "back drop pension adjustment amount" means the sum of  
9           all the monthly adjustment amounts adjusted for  
10          interest from the pension commencement date to the  
11          back drop election date, and

12          e. "deferred benefit balance adjustment amount" means the  
13          interest on the deferred benefit balance from the  
14          pension commencement date to the back drop election  
15          date.

16          2. If a member who has more than twenty (20) years of  
17          creditable service and is eligible to receive a service retirement  
18          pension dies on or after June 4, 2007, and prior to terminating  
19          employment, the member's surviving spouse shall be eligible to elect  
20          to receive a benefit determined as if the member had elected to  
21          participate in the Oklahoma Firefighters Deferred Option Plan in  
22          accordance with subsection H of this section on the day immediately  
23          preceding such member's death. Prior to July 1, 2010, the surviving  
24          spouse must make any such election within one (1) year from the date



1 of the member's death. Effective July 1, 2010, the surviving spouse  
2 must make any such election within ninety (90) days from the date of  
3 the member's death. If on or after June 4, 2007, such election is  
4 made, the monthly pension such surviving spouse is entitled to  
5 receive shall be adjusted in accordance with the provisions of  
6 subsection H of this section to account for the member's  
7 participation in the Oklahoma Firefighters Deferred Option Plan.  
8 The surviving spouse may only make this election if the member has  
9 not previously elected to participate in the Oklahoma Firefighters  
10 Deferred Option Plan. For purposes of this election, the surviving  
11 spouse must have been married to the firefighter for the thirty (30)  
12 continuous months preceding the firefighter's death; provided, the  
13 surviving spouse of a member who died while in, or as a consequence  
14 of, the performance of the member's duty for a participating  
15 municipality shall not be subject to the marriage limitation for  
16 this election.

17 3. If a member has more than twenty (20) years of creditable  
18 service and is eligible for a retirement for disability monthly  
19 pension pursuant to Section 49-109 of this title on or after June 4,  
20 2007, such member shall be eligible to elect to receive a benefit  
21 determined as if the member had elected to participate in the  
22 Oklahoma Firefighters Deferred Option Plan, in accordance with  
23 subsection H of this section, on the day immediately preceding the  
24 date of the member's disability retirement, provided such election

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

14 4. If a member has more than twenty (20) years of creditable  
15 service and filed a grievance for wrongful termination occurring on  
16 or after June 4, 2007, but is not reinstated as an active member,  
17 such member shall be eligible to elect to receive a benefit  
18 determined as if the member had elected to participate in the  
19 Oklahoma Firefighters Deferred Option Plan in accordance with  
20 subsection H of this section on the day immediately preceding the  
21 date of the member's termination. Such election must be made within  
22 two (2) years from the date of the member's termination as an active  
23 member and, if the member's case pertaining to the member's  
24 termination is on appeal to a court of competent jurisdiction,

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

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

1 review process, then subparagraphs d and e of paragraph 1 and  
2 paragraphs 3 and 4 of this subsection shall be repealed effective  
3 June 4, 2007.

4 SECTION 4. AMENDATORY 11 O.S. 2011, Section 49-106.2, as  
5 amended by Section 5, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2012,  
6 Section 49-106.2), is amended to read as follows:

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

22 B. Except as provided below, effective for limitation years  
23 ending after December 31, 2001, any accrued retirement benefit  
24 payable to a member as an annual benefit as described below shall

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

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

1 made without regard to Section 1.401(a)-20, Q&A 10(d), and with  
2 regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax  
3 Regulations.

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

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

1 form of benefit if the form of benefit provides for  
2 automatic, periodic increases to the benefits paid in  
3 that form.

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

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

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

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

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

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

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

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

19                   (1)   the interest rate and the mortality table or  
20                   other tabular factor, each as set forth in  
21                   subsection H of Section 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 6 if the form of the member's  
19 benefit is other than a benefit form described in paragraph 5 of  
20 this subsection. In this case, the actuarially equivalent straight  
21 life 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 (1),  
4 (2) and (3) below:

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 (1), (2) and (3)  
13 below:

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 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 (1), (2) and (3) below:

13 (1) the annual amount of the straight life annuity  
14 commencing at the same annuity starting date that  
15 has the same actuarial present value as the  
16 member's form of benefit, computed using the  
17 interest rate and the mortality table (or other  
18 tabular factor) each as set forth in subsection H  
19 of Section 49-100.9 of this title 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 described in Revenue Ruling 2001-62 (or its  
4 successor for these purposes, if applicable), and  
5 (3) 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:  
9 (a) the rate of interest on thirty-year Treasury  
10 securities as specified by the Commissioner  
11 for the lookback month for the stability  
12 period specified below. The lookback month  
13 applicable to the stability period is the  
14 fourth calendar month preceding the first  
15 day of the stability period, as specified  
16 below. The stability period is the  
17 successive period of one plan year which  
18 contains the annuity starting date for the  
19 distribution and for which the applicable  
20 interest rate remains constant, and  
21 (b) the applicable mortality table described in  
22 Revenue Ruling 2001-62 (or its successor for  
23 these purposes, if applicable),  
24 divided by one and five one-hundredths (1.05).



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

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

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

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

22 (2) If the annuity starting date of the member's  
23 benefit is on or after the first day of the first  
24 plan year beginning in 2004 and before December

1 31, 2004, the application of this subparagraph  
2 shall not cause the amount payable under the  
3 member's form of benefit to be less than the  
4 benefit calculated under the System, taking into  
5 account the limitations of this section, except  
6 that 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 greatest annual amount:

- 13 (a) the interest rate and 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,
- 18 (b) i. the rate of interest on thirty-year  
19 Treasury securities as specified by the  
20 Commissioner for the lookback month for  
21 the stability period specified below.  
22 The lookback month applicable to the  
23 stability period is the fourth calendar  
24 month preceding the first day of the

1 stability period, as specified below.

2 The stability period is the successive  
3 period of one plan year which contains  
4 the annuity starting date for the  
5 distribution and for which the  
6 applicable interest rate remains  
7 constant, and

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

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

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

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

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

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

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

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

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

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

1 subsection H of Section 49-100.9 of this title,  
2 or

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

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

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

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

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

14 (b) If the annuity starting date for the  
15 member's benefit is prior to sixty-two (62)  
16 years of age and occurs in a limitation year  
17 beginning on or after January 1, 2009, and  
18 the 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 within the meaning of Section  
11 417(e) (3) (B) of the Internal Revenue Code of  
12 1986, as amended, as described in Revenue  
13 Ruling 2007-67 (and subsequent guidance)  
14 (and expressing the member's age based on  
15 completed calendar months as of the annuity  
16 starting date).

- 17 (2) System Has Immediately Commencing Straight Life  
18 Annuity Payable at Both Sixty-two (62) Years of  
19 Age and the Age of Benefit Commencement. If the  
20 annuity starting date for the member's benefit is  
21 prior to sixty-two (62) years of age and occurs  
22 in a limitation year beginning on or after July  
23 1, 2007, and the System has an immediately  
24 commencing straight life annuity payable at both



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

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

- 19 a. Limitation Years Beginning Before July 1, 2007. If  
20 the annuity starting date for the member's benefit is  
21 after sixty-five (65) years of age and occurs in a  
22 limitation year beginning before July 1, 2007, the  
23 dollar limitation for the member's annuity starting  
24 date is the annual amount of a benefit payable in the

1 form of a straight life annuity commencing at the  
2 member's annuity starting date that is the actuarial  
3 equivalent of the dollar limitation under subsection B  
4 of this section (adjusted under subsection C of this  
5 section for years of participation less than ten (10),  
6 if required) with actuarial equivalence computed using  
7 whichever of the following produces the smaller annual  
8 amount:

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

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

- 18 (1) System Does Not Have Immediately Commencing  
19 Straight Life Annuity Payable at Both Sixty-five  
20 (65) Years of Age and the Age of Benefit  
21 Commencement.

- 22 (a) If the annuity starting date for the  
23 member's benefit is after sixty-five (65)  
24 years of age and occurs in the limitation

1 year beginning on January 1, 2008, and the  
2 System does not have an immediately  
3 commencing straight life annuity payable at  
4 both sixty-five (65) years of age and the  
5 age of benefit commencement, the dollar  
6 limitation at 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 for the annuity starting date as  
19 described in Revenue Ruling 2001-62 (or its  
20 successor for these purposes, if applicable)  
21 (and expressing the member's age based on  
22 completed calendar months as of the annuity  
23 starting date).

1 (b) If the annuity starting date for the  
2 member's benefit is after sixty-five (65)  
3 years of age and occurs in a limitation year  
4 beginning on or after January 1, 2009, and  
5 the System does not have an immediately  
6 commencing straight life annuity payable at  
7 both sixty-five (65) years of age and the  
8 age of benefit commencement, the dollar  
9 limitation at the member's annuity starting  
10 date is the annual amount of a benefit  
11 payable in the form of a straight life  
12 annuity commencing at the member's annuity  
13 starting date that is the actuarial  
14 equivalent of the dollar limitation under  
15 subsection B of this section (adjusted under  
16 subsection C of this section for years of  
17 participation less than ten (10), if  
18 required) with actuarial equivalence  
19 computed using a five percent (5%) interest  
20 rate assumption and the applicable mortality  
21 table within the meaning of Section  
22 417(e) (3) (B) of the Internal Revenue Code of  
23 1986, as amended, as described in Revenue  
24 Ruling 2007-67 (and subsequent guidance)

1 (and expressing the member's age based on  
2 completed calendar months as of the annuity  
3 starting date).

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

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

19 3. Notwithstanding the other requirements of this subsection,  
20 no adjustment shall be made to the dollar limitation under  
21 subsection B of this section to reflect the probability of a  
22 member's death between the annuity starting date and sixty-two (62)  
23 years of age, or between sixty-five (65) years of age and the  
24 annuity starting date, as applicable, if benefits are not forfeited

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

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

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

18 1. The retirement benefits payable for a limitation year under  
19 any form of benefit with respect to such member under this System  
20 and under all other defined benefit plans (without regard to whether  
21 a plan has been terminated) ever maintained by a participating  
22 municipality do not exceed Ten Thousand Dollars (\$10,000.00)  
23 multiplied by a fraction:  
24

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

6           2.    The participating municipality (or a predecessor employer)  
7    has not at any time maintained a defined contribution plan in which  
8    the member participated (for this purpose, mandatory employee  
9    contributions under a defined benefit plan, individual medical  
10   accounts under Section 401(h) of the Internal Revenue Code of 1986,  
11   as amended, and accounts for postretirement medical benefits  
12   established under Section 419A(d) (1) of the Internal Revenue Code of  
13   1986, as amended, are not considered a separate defined contribution  
14   plan).

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



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

9 H. ~~Effective for years beginning after December 31, 1997~~ July  
10 1, 2012, if a member purchases service credit under ~~Sections 49-~~  
11 ~~117.2 and 49-117.3 of this title~~ the System, which qualifies as  
12 "permissive service credit" pursuant to Section 415(n) of the  
13 Internal Revenue Code of 1986, as amended, the limitations of  
14 Section 415 of the Internal Revenue Code of 1986, as amended, may be  
15 met by either:

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

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

21 I. ~~Effective for years beginning after December 31, 1997~~ July  
22 1, 2012, if a member repays to the System any amounts ~~received~~  
23 refunded from the System because of the member's prior termination  
24 ~~pursuant to~~ or any other amount which qualifies as a repayment under

1 Section ~~49-117.1~~ 415(k)(3) of ~~this title~~ the Internal Revenue Code  
2 of 1986, such repayment shall not be taken into account for purposes  
3 of Section 415 of the Internal Revenue Code of 1986, as amended,  
4 pursuant to Section 415(k)(3) of the Internal Revenue Code of 1986,  
5 as amended.

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

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

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

18 SECTION 5. AMENDATORY 11 O.S. 2011, Section 49-106.5, is  
19 amended to read as follows:

20 Section 49-106.5. A. A member who is an eligible retired  
21 public safety officer and who wishes to have direct payments made  
22 toward the member's qualified health insurance premiums from the  
23 member's monthly disability benefit or monthly pension payment must  
24 make a written election in accordance with Section 402(1) of the

1 Internal Revenue Code of 1986, as amended, on the form provided by  
2 the Oklahoma Firefighters Pension and Retirement System, as follows:

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

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

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

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

17 B. As used in this section:

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

22 2. "Eligible retired public safety officer" means a member who,  
23 by reason of disability or attainment of normal retirement date or  
24

1 age, is separated from service as a public safety officer with the  
2 member's participating municipality; and

3 3. "Qualified health insurance premiums" ~~means~~ effective July  
4 1, 2012, are premiums for coverage for the eligible retired public  
5 safety officer, the eligible retired public safety officer's spouse,  
6 and dependents, as defined in Section 152 of the Internal Revenue  
7 Code of 1986, as amended, by an accident or health insurance plan or  
8 a qualified long-term care insurance contract, as defined in Section  
9 7702B(b) of the Internal Revenue Code of 1986, as amended. The  
10 health plan does not have to be sponsored by the eligible retired  
11 public safety officer's former participating municipality.

12 C. The Oklahoma Firefighters Pension and Retirement Board shall  
13 promulgate such rules as are necessary to implement the provisions  
14 of this section.

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

19  
20 54-1-533

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