

STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL NO. 2130

By: Barrington of the Senate

and

Armes of the House

COMMITTEE SUBSTITUTE

[retirement - Oklahoma Firefighters Pension and
Retirement System - modifying definition - make
irrevocable election - specifying certain election
- survivor benefits - Oklahoma Law Enforcement
Retirement System - retirement based on age and
years of service -
emergency]

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 49-100.1, as
last amended by Section 1, Chapter 128, O.S.L. 2003 (11 O.S. Supp.
2009, Section 49-100.1), is amended to read as follows:

Section 49-100.1 As used in this article:

1 1. "System" means the Oklahoma Firefighters Pension and
2 Retirement System and all predecessor municipal firefighters pension
3 and retirement systems;

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

5 3. "State Board" means the Oklahoma Firefighters Pension and
6 Retirement Board;

7 4. "Local board" means the local firefighters pension and
8 retirement boards;

9 5. "Fund" means the Oklahoma Firefighters Pension and
10 Retirement Fund;

11 6. "Member" means all eligible firefighters of a participating
12 municipality or a fire protection district who perform the essential
13 functions of fire suppression, prevention, and life safety duties in
14 a fire department. The term "member" shall include but not be
15 limited to the person serving as fire chief of any participating
16 municipality, provided that a person serving as fire chief of a
17 participating municipality shall meet the age, agility, physical and
18 other eligibility requirements required by law at the time said
19 person becomes a member of the System. Effective July 1, 1987, a
20 member does not include a "leased employee". The term "leased
21 employee" means any person (other than an employee of the recipient)
22 who pursuant to an agreement between the recipient and any other
23 person ("leasing organization") has performed services for the
24 recipient (or for the recipient and related persons determined in

1 accordance with Section 414(n)(6) of the Internal Revenue Code of
2 1986, as amended) on a substantially full-time basis for a period of
3 at least one year, and such services are performed under primary
4 direction or control by the recipient. Contributions or benefits
5 provided a leased employee by the leasing organization which are
6 attributable to services performed for the recipient employer shall
7 be treated as provided by the recipient employer. A leased employee
8 shall not be considered an employee of the recipient if the
9 requirements of the safe harbor provisions of Section 414(n)(5) of
10 the Internal Revenue Code of 1986, as amended, are satisfied.

11 Effective July 1, 1999, any individual who agrees with the
12 participating municipality that the individual's services are to be
13 performed as a leased employee or an independent contractor shall
14 not be a member regardless of any classification as a common law
15 employee by the Internal Revenue Service or any other governmental
16 agency, or any court of competent jurisdiction;

17 7. "Normal retirement date" means the date at which the member
18 is eligible to receive the unreduced payments of the member's
19 accrued retirement benefit. Such date shall be the first day
20 following the date the member completes twenty (20) years of
21 credited service. If the member's employment continues past the
22 normal retirement date of the member, the actual retirement date of
23 the member shall be the first day following the date the member
24

1 terminates employment with more than twenty (20) years of credited
2 service;

3 8. "Credited service" means the period of service used to
4 determine the eligibility for and the amount of benefits payable to
5 a member. Credited service shall consist of the period during which
6 the member participated in the System or the predecessor municipal
7 systems as an active employee in an eligible membership
8 classification, plus any service prior to the establishment of the
9 predecessor municipal systems which was credited under the
10 predecessor municipal systems; provided, however, "credited service"
11 for members from a fire protection district shall not begin accruing
12 before July 1, 1982;

13 9. "Participating municipality" means a municipality, county
14 fire department organized pursuant to subsection D of Section 351 of
15 Title 19 of the Oklahoma Statutes, or fire protection district which
16 is making contributions to the System on behalf of its firefighters;

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

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

1 12. "Eligible employer" means any municipality with a municipal
2 fire department or a fire protection district with an organized fire
3 department;

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

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

1 shall be treated as if the member did not make such an election.

2 Only salary on which required contributions have been made may be
3 used in computing final average salary.

4 In addition to other applicable limitations, and notwithstanding
5 any other provision to the contrary, for plan years beginning on or
6 after July 1, 2002, the annual gross salary of each "Noneligible
7 Member" taken into account under the System shall not exceed the
8 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")
9 annual salary limit. The EGTRRA annual salary limit is Two Hundred
10 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for
11 increases in the cost of living in accordance with Section
12 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The
13 annual salary limit in effect for a calendar year applies to any
14 period, not exceeding twelve (12) months, over which salary is
15 determined ("determination period") beginning in such calendar year.
16 If a determination period consists of fewer than twelve (12) months,
17 the EGTRRA salary limit will be multiplied by a fraction, the
18 numerator of which is the number of months in the determination
19 period, and the denominator of which is twelve (12). For purposes
20 of this subsection, a "Noneligible Member" is any member who first
21 became a member during a plan year commencing on or after July 1,
22 1996.

23 For plan years beginning on or after July 1, 2002, any reference
24 to the annual salary limit under Section 401(a)(17) of the Internal

1 Revenue Code of 1986, as amended, shall mean the EGTRRA salary limit
2 set forth in this subsection.

3 Effective January 1, 2008, gross salary shall also include gross
4 salary, as described above, for services, but paid by the later of
5 two and one-half (2 1/2) months after a firefighter's severance from
6 employment or the end of the calendar year that includes the date
7 the firefighter terminated employment, if it is a payment that,
8 absent a severance from employment, would have been paid to the
9 firefighter while the firefighter continued in employment with the
10 participating municipality.

11 Effective January 1, 2008, any payments not described above
12 shall not be considered gross salary if paid after severance from
13 employment, even if they are paid by the later of two and one-half
14 (2 1/2) months after the date of severance from employment or the
15 end of the calendar year that includes the date of severance from
16 employment, except payments to an individual who does not currently
17 perform services for the participating municipality by reason of
18 qualified military service within the meaning of Section 414(u)(5)
19 of the Internal Revenue Code of 1986, as amended, to the extent
20 these payments do not exceed the amounts the individual would have
21 received if the individual had continued to perform services for the
22 participating municipality rather than entering qualified military
23 service.

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

6 Effective for years beginning after December 31, 2008, gross
7 salary shall also include differential wage payments under Section
8 414(u)(12) of the Internal Revenue Code of 1986, as amended;

9 15. "Accrued retirement benefit" means two and one-half percent
10 (2 1/2%) of the firefighter's final average salary multiplied by the
11 member's years of credited service not to exceed thirty (30) years;

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

1 beneficiary only if the child is adopted by the member for the
2 thirty (30) continuous months preceding the member's death. Any
3 child who is adopted by a member after the member's retirement and
4 such member dies accidentally or as a consequence of the performance
5 of the member's duty as a firefighter shall not be subject to the
6 thirty-month adoption requirement. This definition of beneficiary
7 shall be in addition to any other requirement set forth in this
8 article;

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

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

20 SECTION 2. AMENDATORY 11 O.S. 2001, Section 49-106.1, as
21 last amended by Section 1, Chapter 177, O.S.L. 2008 (11 O.S. Supp.
22 2009, Section 49-106.1), is amended to read as follows:

23 Section 49-106.1 A. In lieu of terminating employment and
24 accepting a service retirement pension pursuant to Sections 49-101

1 and 49-106 of this title, any member of the Oklahoma Firefighters
2 Pension and Retirement System who has not less than twenty (20)
3 years of creditable service and who is eligible to receive a service
4 retirement pension may elect to participate in the Oklahoma
5 Firefighters Deferred Option Plan and defer the receipts of benefits
6 in accordance with the provisions of this section.

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

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

23 D. When a member begins participation in the Oklahoma
24 Firefighters Deferred Option Plan, the contribution of the member

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

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

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

19 F. A member in the plan shall receive, at the option of the
20 member, a lump sum payment from the account equal to the payments to
21 the account or an annuity based upon the account of the member or
22 may elect any other method of payment if approved by the Board of
23 Trustees. If a member becomes so physically or mentally disabled
24 while in, or in consequence of, the performance of his or her duty

1 as to prevent the effective performance of his or her duties that
2 the State Board approves an in line of duty disability pension, the
3 payment from the account shall be an in line of duty disability
4 payment. Notwithstanding any other provision contained herein to
5 the contrary, commencement of distributions under the Oklahoma
6 Firefighters Deferred Option Plan shall be no later than the time as
7 set forth in subsection B of Section 49-106 of this title.

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

1 H. In lieu of participating in the Oklahoma Firefighters
2 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
3 this section, a member may elect to participate in the Oklahoma
4 Firefighters Deferred Option Plan pursuant to this subsection as
5 follows:

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

- 8 a. "back drop date" means the member's normal retirement
9 date or the date five (5) years before the member
10 elects to participate in the Oklahoma Firefighters
11 Deferred Option Plan, whichever date is later,
- 12 b. "termination date" means the date the member elects to
13 participate in the Oklahoma Firefighters Deferred
14 Option Plan pursuant to this subsection, and the date
15 the member terminates employment with all
16 participating municipalities as an active firefighter,
- 17 c. "earlier attained credited service" means the credited
18 service earned by a member as of the back drop date,
19 and
- 20 d. "deferred benefit balance" means all monthly
21 retirement benefits that would have been payable had
22 the member elected to cease employment on the back
23 drop date and receive a service retirement from the
24 back drop date to the termination date, all the

1 member's contributions and one-half (1/2) of the
2 employer contributions from the back drop date to the
3 termination date, with interest based on how the
4 benefit would have accumulated on a compound annual
5 basis as if the member had participated in the
6 Oklahoma Firefighters Deferred Option Plan pursuant to
7 subsections A, B, C, D, E and F of this section from
8 the back drop date to the termination date; and

9 2. At the termination date, the monthly pension benefit shall
10 be determined based on earlier attained credited service and on the
11 final average salary as of the back drop date. The member's
12 individual deferred option account shall be credited with an amount
13 equal to the deferred benefit balance, the member shall terminate
14 employment with all participating municipalities as a firefighter,
15 and shall start receiving the member's accrued monthly retirement
16 benefit from the System. Such a member may be reemployed by a
17 participating municipality but only in a position not covered under
18 the System, and receive in-service distributions of such member's
19 accrued monthly retirement benefit from the System. The provisions
20 of subsections B, C, E, F and G of this section shall apply to this
21 subsection. A member shall not participate in the Oklahoma
22 Firefighters Deferred Option Plan pursuant to this subsection if the
23 member has elected to participate in the Oklahoma Firefighters
24

1 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
2 this section.

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

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

8 a. "back drop election date" means the date the surviving
9 spouse or member elects to commence participation in
10 the Oklahoma Firefighters Deferred Option Plan
11 pursuant to subsection H of this section and this
12 subsection,

13 b. "interest" means the actuarial assumed interest rate
14 as certified by the actuary in the yearly evaluation
15 report of the actuary, and

16 c. "monthly adjustment amount" means the difference
17 between the monthly pension prior to the back drop
18 election and the adjusted monthly pension due to the
19 back drop election,

20 ~~d. "back drop pension adjustment amount" means the sum of~~
21 ~~all the monthly adjustment amounts adjusted for~~
22 ~~interest from the pension commencement date to the~~
23 ~~back drop election date, and~~

1 e. ~~"deferred benefit balance adjustment amount" means the~~
2 ~~interest on the deferred benefit balance from the~~
3 ~~pension commencement date to the back drop election~~
4 ~~date.~~

5 2. If a member who has more than twenty (20) years of
6 creditable service and is eligible to receive a service retirement
7 pension dies on or after ~~the effective date of this act~~ June 4,
8 2007, and prior to terminating employment, the member's surviving
9 spouse shall be eligible to elect to receive a benefit determined as
10 if the member had elected to participate in the Oklahoma
11 Firefighters Deferred Option Plan in accordance with subsection H of
12 this section on the day immediately preceding such member's death.
13 The surviving spouse must make any such election within one (1) year
14 from the date of the member's death. If such election is made, the
15 monthly pension such surviving spouse is ~~receiving, or is~~ entitled
16 to receive, shall be adjusted in accordance with the provisions of
17 subsection H of this section to account for the member's
18 participation in the Oklahoma Firefighters Deferred Option Plan.
19 ~~The deferred benefit balance such surviving spouse is entitled to~~
20 ~~receive shall be reduced by the back drop pension adjustment amount~~
21 ~~and increased by the deferred benefit balance adjustment amount.~~
22 ~~The surviving spouse may only make a back drop election if the~~
23 ~~deferred benefit balance after the adjustment described in this~~
24 ~~paragraph is greater than Zero Dollars (\$0.00).~~ The surviving

1 spouse may only make this election if the member has not previously
2 elected to participate in the Oklahoma Firefighters Deferred Option
3 Plan. For purposes of this election, the surviving spouse must have
4 been married to the firefighter for the thirty (30) continuous
5 months preceding the firefighter's death; provided, the surviving
6 spouse of a member who died while in, or as a consequence of, the
7 performance of the member's duty for a participating municipality
8 shall not be subject to the marriage limitation for this election.

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

~~benefit balance adjustment amount. The member may only make a back drop election if the deferred benefit balance after the adjustment described in this paragraph is greater than Zero Dollars (\$0.00).~~

The member may only make this election if the member has not previously elected to participate in the Oklahoma Firefighters Deferred Option Plan, and prior to commencing his or her monthly disability pension.

4. If a member has more than twenty (20) years of creditable service and filed a grievance for wrongful termination occurring on or after ~~the effective date of this act~~ June 4, 2007, but is not reinstated as an active member, such member shall be eligible to elect to receive a benefit determined as if the member had elected to participate in the Oklahoma Firefighters Deferred Option Plan in accordance with subsection H of this section on the day immediately preceding the date of the member's termination. Such election must be made within two (2) years from the date of the member's termination as an active member and, if the member's case pertaining to the member's termination is on appeal to a court of competent jurisdiction, within such period set by the State Board in its sole discretion. The monthly pension such member is ~~receiving, or~~ entitled to receive, shall be adjusted in accordance with the provisions of subsection H of this section to account for the member's participation in the Oklahoma Firefighters Deferred Option Plan. ~~The deferred benefit balance such member is entitled to~~

1 ~~receive shall be reduced by the back drop pension adjustment amount~~
2 ~~and increased by the deferred benefit balance adjustment amount.~~
3 ~~The member may only make a back drop election if the deferred~~
4 ~~benefit balance after the adjustment described in this paragraph is~~
5 ~~greater than Zero Dollars (\$0.00).~~ The member may only make this
6 election if the member has not previously elected to participate in
7 the Oklahoma Firefighters Deferred Option Plan, and prior to
8 commencing his or her monthly pension or monthly disability pension.

9 SECTION 3. AMENDATORY 11 O.S. 2001, Section 49-106.2, as
10 last amended by Section 2, Chapter 177, O.S.L. 2008 (11 O.S. Supp.
11 2009, Section 49-106.2), is amended to read as follows:

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

beginning on or after July 1, 2007, except as otherwise provided below.

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

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

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

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

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

1 exceed the limits of this section applicable at the
2 annuity starting date, as increased in subsequent
3 years pursuant to Section 415(d) of the Internal
4 Revenue Code of 1986, as amended. For this purpose,
5 an automatic benefit increase feature is included in a
6 form of benefit if the form of benefit provides for
7 automatic, periodic increases to the benefits paid in
8 that form.

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

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

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

- 1 a. a nondecreasing annuity (other than a straight life
2 annuity) payable for a period of not less than the
3 life of the member (or, in the case of a qualified
4 preretirement survivor annuity, the life of the
5 surviving spouse), or
- 6 b. an annuity that decreases during the life of the
7 member merely because of:
- 8 (1) the death of the survivor annuitant, but only if
9 the reduction is not below fifty percent (50%) of
10 the benefit payable before the death of the
11 survivor annuitant, or
- 12 (2) the cessation or reduction of Social Security
13 supplements or qualified disability payments as
14 defined in Section ~~401~~ 411(a)-(11)(9) of the
15 Internal Revenue Code of 1986, as amended.
- 16 c. Limitation ~~Year~~ Years Beginning Before July 1, 2007.
17 For limitation years beginning before July 1, 2007,
18 the actuarially equivalent straight life annuity is
19 equal to the annual amount of the straight life
20 annuity commencing at the same annuity starting date
21 that has the same actuarial present value as the
22 member's form of benefit computed using whichever of
23 the following produces the greater annual amount:
24

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

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

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

- (1) the annual amount of the straight life annuity, if any, payable to the member under the System commencing at the same annuity starting date as the member's form of benefit, and
- (2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five percent (5%) interest rate assumption and the applicable mortality table described in Revenue Ruling 2001-62 (or its successor for these

1 purposes, if applicable) for that annuity
2 starting date.

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

10 a. Annuity Starting Date in Plan Years Beginning After
11 ~~2005~~ December 31, 2007 (Plan Years beginning on or
12 after July 1, 2008). If the annuity starting date of
13 the member's form of benefit is in a plan year
14 beginning after ~~2005~~ December 31, 2007, the
15 actuarially equivalent straight life annuity is equal
16 to the greatest of (1), (2) or (3) below:

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

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

1 which the applicable interest rate remains
2 constant, or as otherwise provided in the
3 applicable guidance if the first day of the
4 first plan year beginning after December 31,
5 2007, does not coincide with the first day
6 of the applicable stability period, and
7 (b) the applicable mortality table described in
8 Revenue Ruling 2001-62 (or its successor for
9 these purposes, if applicable),
10 divided by one and five one-hundredths (1.05).

11 b. Annuity Starting Date in Plan Years Beginning in 2006
12 or 2007. If the annuity starting date of the member's
13 form of benefit is in a plan year beginning in 2006 or
14 2007, the actuarially equivalent straight life annuity
15 is equal to the greatest of (1), (2) or (3) below:

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

1 (2) the annual amount of the straight life annuity
2 commencing at the same annuity starting date that
3 has the same actuarial present value as the
4 member's form of benefit, computed using a five
5 and one-half percent (5.5%) interest rate
6 assumption and the applicable mortality table
7 described in Revenue Ruling 2001-62 (or its
8 successor for these purposes, if applicable), and

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

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

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

~~b.~~

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

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

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

(b) a five and one-half percent (5.5%) interest rate assumption and the applicable mortality table described in Revenue Ruling 2001-62

1 (or its successor for these purposes, if
2 applicable).

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

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

23 (b) i. the rate of interest on thirty-year
24 Treasury securities as specified by the

1 Commissioner for the lookback month for
2 the stability period specified below.

3 The lookback month applicable to the
4 stability period is the fourth calendar
5 month preceding the first day of the
6 stability period, as specified below.

7 The stability period is the successive
8 period of one plan year which contains
9 the annuity starting date for the
10 distribution and for which the
11 applicable interest rate remains
12 constant, and

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

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

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

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

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

22 D. Adjustment of Dollar Limitation for Benefit Commencement
23 Before Sixty-two (62) Years of Age or After Sixty-five (65) Years of
24 Age: Effective for benefits commencing in limitation years ending

1 after December 31, 2001, the dollar limitation under subsection B of
2 this section shall be adjusted if the annuity starting date of the
3 member's benefit is before sixty-two (62) years of age or after
4 sixty-five (65) years of age. If the annuity starting date is
5 before sixty-two (62) years of age, the dollar limitation under
6 subsection B of this section shall be adjusted under paragraph 1 of
7 this subsection, as modified by paragraph 3 of this subsection, but
8 subject to paragraph 4 of this subsection. If the annuity starting
9 date is after sixty-five (65) years of age, the dollar limitation
10 under subsection B of this section shall be adjusted under paragraph
11 2 of this subsection, as modified by paragraph 3 of this subsection.

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

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

1 if required) with actuarial equivalence computed using
2 whichever of the following produces the smaller annual
3 amount:

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

12 b. Limitation Years Beginning On Or After July 1, 2007.

- 13 (1) System Does Not Have Immediately Commencing
14 Straight Life Annuity Payable at Both Sixty-two
15 (62) Years of Age and the Age of Benefit
16 Commencement. If the annuity starting date for
17 the member's benefit is prior to sixty-two (62)
18 years of age and occurs in a limitation year
19 beginning on or after July 1, 2007, and the
20 System does not have an immediately commencing
21 straight life annuity payable at both sixty-two
22 (62) years of age and the age of benefit
23 commencement, the dollar limitation for the
24 member's annuity starting date is the annual

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

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

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

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

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

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

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

16 b. Limitation Years Beginning On Or After July 1, 2007.

- 17 (1) System Does Not Have Immediately Commencing
18 Straight Life Annuity Payable at Both Sixty-five
19 (65) Years of Age and the Age of Benefit
20 Commencement. If the annuity starting date for
21 the member's benefit is after sixty-five (65)
22 years of age and occurs in a limitation year
23 beginning on or after July 1, 2007, and the
24 System does not have an immediately commencing

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 K. The State Board is hereby authorized to revoke the special
23 election previously made on June 21, 1991, under Internal Revenue
24 Code Section 415(b)(10).

SECTION 4. AMENDATORY 11 O.S. 2001, Section 49-106.3, as last amended by Section 3, Chapter 177, O.S.L. 2008 (11 O.S. Supp. 2009, Section 49-106.3), is amended to read as follows:

Section 49-106.3 A. For distributions made on or after January 1, 1993, and notwithstanding any provision of the System to the contrary that would otherwise limit a Distributee's election hereunder, a Distributee, including a nonspouse designated beneficiary, to the extent permitted under paragraph 3 of subsection B of this section, may elect, at the time and in the manner prescribed by the State Board, to have any portion of an Eligible Rollover Distribution paid directly to ~~an~~:

1. An Eligible Retirement Plan; or
2. Effective for distributions after December 31, 2007, a Roth IRA described in Section 408A of the Internal Revenue Code of 1986, as amended, subject to any limitations described in Section 408A(c) of the Internal Revenue Code of 1986, as amended, specified by the Distributee in a Direct Rollover.

B. For purposes of this section, the following definitions shall apply:

1. "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or

1 life expectancy) of the Distributee or the joint lives (or life
2 expectancies) of the Distributee and the Distributee's designated
3 beneficiary, or for a specified period of ten (10) years or more;
4 any distribution to the extent such distribution is required under
5 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;
6 and the portion of any distribution that is not includable in gross
7 income. Effective January 1, 2002, a portion of a distribution
8 shall not fail to be an Eligible Rollover Distribution merely
9 because the portion consists of after-tax member contributions which
10 are not includable in gross income. However, such portion may be
11 ~~paid~~ transferred only:

12 (a) from January 1, 2002, through December 31, 2006, ~~to:~~

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

16 (2) in a direct trustee-to-trustee transfer, to a
17 qualified trust which is a part of a defined
18 contribution plan ~~described in Section 401(a) or~~
19 ~~403(a) of the Internal Revenue Code of 1986, as~~
20 ~~amended, and which~~ that agrees to separately
21 account for amounts so transferred, including
22 separately accounting for the portion of such
23 distribution which is includable in gross income
24

1 and the portion of such distribution which is not
2 so includable, and

3 (b) on or after January 1, 2007, ~~to~~:

4 (1) to an individual retirement account or annuity
5 described in Section 408(a) or (b) of the

6 Internal Revenue Code of 1986, as amended, or

7 (2) in a direct trustee-to-trustee transfer, to a

8 ~~qualified trust described in Section 401(a) or~~

9 ~~403(a) of the Internal Revenue Code of 1986, as~~

10 ~~amended,~~ or an annuity contract described in

11 Section 403(b) of the Internal Revenue Code of

12 1986, as amended, ~~and~~ if such trust or annuity

13 contract provides for separate accounting for

14 amounts so transferred (and earnings thereon),

15 including separately accounting for the portion

16 of such distribution which is includable in gross

17 income and the portion of such distribution which

18 is not so includable.

19 Effective for distributions after December 31, 2007,

20 such after-tax portion may also be transferred to a

21 Roth IRA described in Section 408A of the Internal

22 Revenue Code of 1986, as amended, subject to any

23 limitations described in Section 408A(c) of the

24 Internal Revenue Code of 1986, as amended, that agrees

1 to separately account for amounts so transferred,
2 including separately accounting for the portion of
3 such distribution which is includable in gross income
4 and the portion of such distribution which is not so
5 includable;

6 2. "Eligible Retirement Plan" means an individual retirement
7 account described in Section 408(a) of the Internal Revenue Code of
8 1986, as amended, an individual retirement annuity described in
9 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
10 annuity plan described in Section 403(a) of the Internal Revenue
11 Code of 1986, as amended, or a qualified trust described in Section
12 401(a) of the Internal Revenue Code of 1986, as amended, that
13 accepts the Distributee's Eligible Rollover Distribution. Effective
14 January 1, 2002, an Eligible Retirement Plan shall also mean an
15 annuity contract described in Section 403(b) of the Internal Revenue
16 Code of 1986, as amended, and an eligible plan under Section 457(b)
17 of the Internal Revenue Code of 1986, as amended, which is
18 maintained by a state, political subdivision of a state, or any
19 agency or instrumentality of a state or political subdivision of a
20 state and which agrees to separately account for amounts transferred
21 into such plan from the System;

22 3. "Distributee" means a member whether or not the member is an
23 active firefighter. In addition, effective June 7, 1993, the
24 member's surviving spouse and the member's spouse or former spouse

1 who is an alternate payee under a qualified domestic order, as
2 provided in subsection B of Section 49-126 of this title, are
3 Distributees with regard to the interest of the spouse or former
4 spouse. Effective for distributions after December 31, 2006, a
5 Distributee also includes the member's nonspouse designated
6 beneficiary, pursuant to Section 401(a)(9)(E) of the Internal
7 Revenue Code of 1986, as amended. ~~In the case of a nonspouse~~
8 ~~beneficiary, the~~ who may only elect a Direct Rollover may be made
9 only (to the extent such Distributee does not receive a lump sum
10 payment) to an individual retirement account or annuity (other than
11 an endowment contract) described in Section 408(a) or (b) of the
12 Internal Revenue Code of 1986, as amended, (IRA), that is
13 established on behalf of such designated beneficiary and that will
14 be treated as an inherited IRA pursuant to the provisions of Section
15 402(c)(11) of the Internal Revenue Code of 1986, as amended. Also,
16 in this case, the determination of any required minimum distribution
17 under Section 401(a)(9) of the Internal Revenue Code of 1986, as
18 amended, that is ineligible for rollover shall be made in accordance
19 with Notice 2007-7, Q&A 17 and 18, ~~Announcement~~ 2007-5 Internal
20 Revenue Bulletin 395. The required minimum distribution rules of
21 Section 401(a)(9)(B) (other than clause iv thereof) of the Internal
22 Revenue Code of 1986, as amended, apply to the transferee IRA; and
23 4. "Direct Rollover" means a payment by the System to the
24 Eligible Retirement Plan specified by the Distributee or, effective

1 for distributions on or after January 1, 2008, to a Roth IRA under
2 Section 408A of the Internal Revenue Code of 1986, as amended, as
3 specified by the Distributee, assuming the Distributee otherwise
4 meets the Roth IRA requirements.

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

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

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

19 D. Prior to January 1, 2010, a distribution with respect to a
20 nonspouse designated beneficiary shall be made in accordance with
21 Notice 2007-7, Q&A 15, 2007-5 Internal Revenue Bulletin 395.
22 Effective January 1, 2010, a distribution with respect to a
23 nonspouse designated beneficiary shall be subject to Sections
24

1 401(a)(31), 402(f) and 3405(c) of the Internal Revenue Code of 1986,
2 as amended.

3 SECTION 5. AMENDATORY Section 3, Chapter 345, O.S.L.
4 2007 (11 O.S. Supp. 2009, Section 49-106.4), is amended to read as
5 follows:

6 Section 49-106.4 A. An individual who has been designated,
7 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of
8 1986, as amended, as the beneficiary of a deceased member and who is
9 not the surviving spouse of the member, may elect, in accordance
10 with Section 402(c)(11) of the Internal Revenue Code of 1986, as
11 amended, and at the time and in the manner prescribed by the
12 Oklahoma Firefighters Pension and Retirement Board, to have a direct
13 trustee-to-trustee transfer of any portion of such beneficiary's
14 lump-sum distribution from the Oklahoma Firefighters Pension and
15 Retirement System after December 31, 2006, made to an individual
16 retirement account or individual retirement annuity (other than an
17 endowment contract) described in Section 408(a) or (b) of the
18 Internal Revenue Code of 1986, as amended (IRA), that is established
19 on behalf of such designated individual. If such transfer is made
20 then:

21 1. The transfer is treated as an eligible rollover distribution
22 for purposes of Section 402(c)(11) of the Internal Revenue Code of
23 1986, as amended;

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

6 3. The required minimum distribution rules of Section
7 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue
8 Code of 1986, as amended, apply to the transferee IRA.

9 B. A trust maintained for the benefit of one or more designated
10 beneficiaries shall be treated in the same manner as a ~~trust~~
11 designated beneficiary.

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. AMENDATORY 11 O.S. 2001, Section 49-122, is
16 amended to read as follows:

17 Section 49-122. A. Each municipality having a paid member of a
18 fire department shall deduct monthly from the salary of each member
19 of the fire department of such municipality an amount equal to eight
20 percent (8%) of the actual paid gross salary of each member of the
21 fire department. The deduction shall be considered the minimum
22 deduction. At the option of the municipality, the municipality may
23 pay all or any part of the member's required contribution. ~~The~~
24 ~~members of a fire department, by a majority vote of its paid~~

1 ~~members, may vote to increase the amount of the deduction.~~ The
2 treasurer of each municipality shall deduct the authorized
3 deductions from the salary of each paid member of the fire
4 department. The treasurer of the municipality shall deposit within
5 ten (10) days from each ending payroll date in the System the amount
6 deducted from the salary of each member of the fire department.
7 Amounts deducted from the salary of a member and not paid to the
8 System after thirty (30) days from each ending payroll date shall be
9 subject to a monthly late charge of one and one-half percent (1
10 1/2%) of the unpaid balance to be paid by the municipality to the
11 System.

12 Each municipality shall pick up under the provisions of Section
13 414(h)(2) of the Internal Revenue Code of 1986, as amended, and pay
14 the contribution which the member is required by law to make to the
15 System for all compensation earned after December 31, 1988.

16 Although the contributions so picked up are designated as member
17 contributions, such contributions shall be treated as contributions
18 being paid by the municipality in lieu of contributions by the
19 member in determining tax treatment under the Internal Revenue Code
20 of 1986 and such picked up contributions shall not be includable in
21 the gross income of the member until such amounts are distributed or
22 made available to the member or the beneficiary of the member. The
23 member, by the terms of this system, shall not have any option to
24 choose to receive the contributions so picked up directly and the

1 picked up contributions must be paid by the municipality to the
2 System.

3 Member contributions which are picked up shall be treated in the
4 same manner and to the same extent as member contributions made
5 prior to the date on which member contributions were picked up by
6 the municipality. Member contributions so picked up shall be
7 included in salary for purposes of the System.

8 The municipality shall pay the member contributions from the
9 same source of funds used in paying salary to the member, by
10 effecting an equal cash reduction in gross salary of the member, or
11 by an offset against future salary increases, or by a combination of
12 reduction in gross salary and offset against future salary
13 increases.

14 The treasurer of each municipality shall deduct the picked up
15 contributions from the salary of each paid member of the fire
16 department. The treasurer of the municipality shall deposit monthly
17 in the System the amount picked up from the salary of each member of
18 the fire department.

19 B. Each municipality having a paid member of a fire department
20 shall deposit monthly with the State Board an amount equal to the
21 following:

22 1. Prior to July 1, 1991, ten percent (10%) of the total actual
23 paid gross salaries of the members of the fire department;
24

1 2. Beginning July 1, 1991 through June 30, 1992, ten and one-
2 half percent (10 1/2%) of the total actual paid gross salaries of
3 the members of the fire department;

4 3. Beginning July 1, 1992 through June 30, 1993, eleven percent
5 (11%) of the total actual paid gross salaries of the members of the
6 fire department;

7 4. Beginning July 1, 1993 through June 30, 1994, eleven and
8 one-half percent (11 1/2%) of the total actual paid gross salaries
9 of the members of the fire department;

10 5. Beginning July 1, 1994 through June 30, 1995, twelve percent
11 (12%) of the total actual paid gross salaries of the members of the
12 fire department;

13 6. Beginning July 1, 1995 through June 30, 1996, twelve and
14 one-half percent (12 1/2%) of the total actual paid gross salaries
15 of the members of the fire department; and

16 7. Beginning July 1, 1996, thirteen percent (13%) of the total
17 actual paid gross salaries of the members of the fire department.

18 C. Each county or municipality having a volunteer member of a
19 fire department shall deposit yearly with the State Board Sixty
20 Dollars (\$60.00) for each volunteer member of the department.

21 Provided, the above-mentioned volunteer county or municipal
22 contributions shall be reevaluated by the next scheduled actuarial
23 study and the amounts adjusted so that in a nine-year period of
24 time, the amounts would reflect the actuarial recommendations at

1 that time. Any county or municipality with an income of less than
2 Twenty-five Thousand Dollars (\$25,000.00) to its general fund during
3 a fiscal year shall be exempt from the provisions of this
4 subsection.

5 Any municipality that fails to comply with the provisions of
6 this section shall not be entitled to its proportionate share of the
7 Motor Fuel Excise Tax which is received through the Oklahoma Tax
8 Commission. Any county or municipality may exceed the amount of
9 contribution required by this section.

10 The provisions of this section shall supercede any city charter
11 provision in direct conflict with this section.

12 SECTION 7. AMENDATORY 11 O.S. 2001, Section 49-126, as
13 last amended by Section 5, Chapter 356, O.S.L. 2007 (11 O.S. Supp.
14 2009, Section 49-126), is amended to read as follows:

15 Section 49-126. A. Except as otherwise provided by this
16 section, no portion of said pension shall, either before or after
17 its order of distribution by the State Board to such disabled
18 members of said fire department, or the surviving spouse, alternate
19 payee as defined in subsection B of this section, or guardian of
20 such minor child or children, to the deceased or retired member of
21 such department, be held, seized, taken, subjected to or detained or
22 levied on by virtue of any attachment, execution, injunction, writ
23 interlocutory or other order or decree, or any process or proceeding
24 whatever, issued out of or by any court of this state for the

1 payment or satisfaction, in whole or in part, of any debt, damages,
2 claim, demand or judgment against such member, or his or her
3 surviving spouse, alternate payee, or the guardian of said minor
4 child or children of any deceased member, nor shall said fund or any
5 claim thereto be directly or indirectly assigned and any attempt to
6 assign or transfer the same shall be void; but the funds shall be
7 held, kept, secured and distributed for the purpose of pensioning
8 the persons named in this article, and for no other purpose
9 whatever. Notwithstanding the foregoing, effective August 5, 1997,
10 the State Board may approve any offset of a member's benefit to pay
11 a judgment or settlement against a member for a crime involving the
12 System, for a breach of the member's fiduciary duty to the System,
13 or for funds or monies incorrectly paid to a member or beneficiary
14 by mistake, provided such offset is in accordance with the
15 requirements of Section 401(a)(13) of the Internal Revenue Code of
16 1986, as amended.

17 B. 1. The provisions of subsection A of this section shall not
18 apply to a qualified domestic order as provided pursuant to this
19 subsection.

20 2. The term "qualified domestic order" means an order issued by
21 a district court of this state pursuant to the domestic relation
22 laws of this state which relates to the provision of marital
23 property rights to an alternate payee and which creates or
24 recognizes the existence of the right of an alternate payee and

1 assigns to an alternate payee the right to receive a portion of the
2 benefits payable with respect to a member of the System.

3 3. The term "alternate payee" means any spouse, former spouse,
4 minor or disabled child or children, or other dependent of the
5 member who is recognized by a domestic relations order as having a
6 right to receive benefits payable with respect to a member of the
7 System.

8 4. For purposes of the payment of marital property, to qualify
9 as an alternate payee, a spouse or former spouse must have been
10 married to the related member for a period of not less than thirty
11 (30) continuous months immediately preceding the commencement of the
12 proceedings from which the qualified domestic order issues.

13 5. A qualified domestic order is valid and binding on the State
14 Board and the related member only if it meets the requirements of
15 this subsection.

16 6. A qualified domestic order shall clearly specify:

- 17 a. the name and last-known mailing address (if any) of
18 the member and the name and mailing address of the
19 alternate payee covered by the order,
 - 20 b. the amount or percentage of the member's benefits to
21 be paid by the System to the alternate payee,
 - 22 c. the number of payments or period to which such order
23 applies,
- 24

- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

7. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,
- b. does not require the System to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to ~~the effective date of this act~~ June 7, 1993.

8. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date of the related member.

9. The alternate payee shall have a right to receive benefits payable to a member of the System under the Oklahoma Firefighters Deferred Option plan provided for pursuant to Section 49-106.1 of this title, but only to the extent such benefits have been credited

1 or paid into the member's Oklahoma Firefighters Deferred Option Plan
2 account during the term of the marriage.

3 10. The obligation of the System to pay an alternate payee
4 pursuant to a qualified domestic order shall cease upon the earlier
5 of the death of the related member or the death of the alternate
6 payee. Upon the death of the alternate payee, the assignment to the
7 alternate payee of the right to receive a portion of the benefits
8 payable with respect to the member shall cease and the payments of
9 benefits to the member shall be reinstated.

10 11. This subsection shall not be subject to the provisions of
11 the Employee Retirement Income Security Act of 1974 (ERISA), 29
12 U.S.C.A. Section 1001, et seq., as amended from time to time, or
13 rules and regulations promulgated thereunder, and court cases
14 interpreting said act.

15 12. The Oklahoma Firefighters Pension and Retirement Board
16 shall promulgate such rules as are necessary to implement the
17 provisions of this subsection.

18 13. An alternate payee who has acquired beneficiary rights
19 pursuant to a valid qualified domestic order must fully comply with
20 all provisions of the rules promulgated by the State Board pursuant
21 to this subsection in order to continue receiving his or her
22 benefit.

23 C. The provisions of subsection A of this section shall not
24 apply to a Child Support Enforcement Division order for a support

1 arrearage pursuant to Section 240.23 of Title 56 of the Oklahoma
2 Statutes and current child support payments made pursuant to a valid
3 court order.

4 D. The provisions of subsection A of this section shall not
5 apply to a federal tax levy made pursuant to Section 6331 of the
6 Internal Revenue Code of 1986, as amended, and the collection by the
7 United States on a judgment resulting from an unpaid tax assessment.

8 E. The provisions of subsection A of this section shall not
9 apply in the case of an overpayment to a member or other payee.

10 Such overpayment may be corrected through a return of the
11 overpayment, or an adjustment of future payments, or a combination
12 of these two methods, as approved by the State Board. The term
13 "other payee" shall include, but not be limited to, alternate payees
14 as defined in subsection B of this section, beneficiaries,
15 designated recipients, and other individuals eligible to receive
16 benefits pursuant to Section 49-113 of this title.

17 SECTION 8. AMENDATORY 11 O.S. 2001, Section 49-138, as
18 last amended by Section 4, Chapter 203, O.S.L. 2005 (11 O.S. Supp.
19 2009, Section 49-138), is amended to read as follows:

20 Section 49-138. A. Any member of a regularly constituted fire
21 department of any municipality who is now serving or may hereafter
22 serve in the Armed Forces of the United States whether such service
23 is voluntary or involuntary, who shall have been a member of such
24 fire department at the time of entering such service, shall be

1 entitled to have the whole of the time of such service applied under
2 the provisions of Section 49-106 of this title, so far as the same
3 applies to a service pension; provided further, that the
4 municipality shall continue its payment into said pension fund, to
5 the same force and effect as though the member were in the actual
6 service of such fire department; provided, that any person who is
7 eligible for such service but who shall have volunteered for
8 military or naval service for a period not to exceed five (5) years
9 shall likewise be entitled to all of the benefits of Sections 49-138
10 through 49-142 of this title for the full period of such service or
11 enlistment; provided further, that only one such period of voluntary
12 service shall be considered hereunder. If such person shall
13 reenlist, unless ~~he is~~ required to do so by law, he such person
14 shall not thereafter be entitled to the provisions of this
15 subsection. The provisions of this subsection shall not apply where
16 any such person dies during the period of said service or
17 enlistment, and shall not entitle the surviving spouse or children
18 to any benefits, and shall not apply to any member who shall have
19 served on active duty (including initial active duty) for training
20 purposes only and/or inactive duty training.

21 B. Effective February 1, 1997, credited service received
22 pursuant to this section or credited service for wartime military
23 service received as otherwise provided by law shall be used in
24 determining the member's retirement benefit but shall not be used in

determining years of service for retirement, vesting purposes or eligibility for participation in the Oklahoma Firefighters Deferred Option Plan. For a member of the System hired on or after July 1, 2003, if the military service credit authorized by this section is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other retirement system created pursuant to the Oklahoma Statutes and the member may receive credit for such service only in the retirement system from which the member first retires.

C. A member who retires or elects to participate in the Oklahoma Firefighters Deferred Option Plan on or after July 1, 1998, shall be entitled to prior service credit, not to exceed five (5) years, for those periods of military service on active duty prior to membership in the Oklahoma Firefighters Pension and Retirement System.

For purposes of this subsection, "military service" means service in the Armed Forces of the United States by honorably discharged persons during the following time periods, as reflected on such person's Defense Department Form 214, as follows:

1. During the following periods, including the beginning and ending dates, and only for the periods served, from:

- a. April 6, 1917, to November 11, 1918, commonly referred to as World War I,

- 1 b. September 16, 1940, to December 7, 1941, for members
2 of the 45th Division,
- 3 c. December 7, 1941, to December 31, 1946, commonly
4 referred to as World War II,
- 5 d. June 27, 1950, to January 31, 1955, commonly referred
6 to as the Korean Conflict or the Korean War,
- 7 e. February 28, 1961, to May 7, 1975, commonly referred
8 to as the Vietnam era, except that:
- 9 (1) for the period from February 28, 1961, to August
10 4, 1964, military service shall only include
11 service in the Republic of Vietnam during that
12 period, and
- 13 (2) for purposes of determining eligibility for
14 education and training benefits, such period
15 shall end on December 31, 1976, or
- 16 f. August 1, 1990, to December 31, 1991, commonly
17 referred to as the Gulf War, the Persian Gulf War, or
18 Operation Desert Storm, but excluding any person who
19 served on active duty for training only, unless
20 discharged from such active duty for a service-
21 connected disability;

22 2. During a period of war or combat military operation other
23 than a conflict, war or era listed in paragraph 1 of this
24 subsection, beginning on the date of Congressional authorization,

1 Congressional resolution, or Executive Order of the President of the
2 United States, for the use of the Armed Forces of the United States
3 in a war or combat military operation, if such war or combat
4 military operation lasted for a period of ninety (90) days or more,
5 for a person who served, and only for the period served, in the area
6 of responsibility of the war or combat military operation, but
7 excluding a person who served on active duty for training only,
8 unless discharged from such active duty for a service-connected
9 disability, and provided that the burden of proof of military
10 service during this period shall be with the member, who must
11 present appropriate documentation establishing such service.

12 D. An eligible member pursuant to subsection C of this section
13 shall include only those persons who shall have served during the
14 times or in the areas prescribed in subsection C of this section,
15 and only if such person provides appropriate documentation in such
16 time and manner as required by the System to establish such military
17 service prescribed in this section, or for service pursuant to
18 division (1) of subparagraph e of paragraph 1 of subsection C of
19 this section, those persons who were awarded service medals, as
20 authorized by the United States Department of Defense as reflected
21 in the veteran's Defense Department Form 214, related to the Vietnam
22 Conflict for service prior to August 5, 1964. The provisions of
23 subsection C of this section shall include military retirees, whose
24 retirement was based only on active service, that have been rated as

1 having twenty percent (20%) or greater service-connected disability
2 by the Veterans Administration or the Armed Forces of the United
3 States. The provisions of subsection C of this section shall not
4 apply to any person who shall have served on active duty for
5 training purposes only unless discharged from active duty for a
6 service-connected disability.

7 E. Notwithstanding any provision herein to the contrary,
8 contributions:

9 1. Contributions, benefits and service credit with respect to
10 qualified military service shall be provided in accordance with
11 Section 414(u) of the Internal Revenue Code of 1986, as amended,
12 which is in accordance with the Uniformed Services Employment and
13 Reemployment Rights Act of 1994, as amended (USERRA) ~~as amended.~~
14 ~~The municipality's contributions to the System for a member covered~~
15 ~~by USERRA are due when such a member makes up his or her~~
16 ~~contributions that were missed due to his or her qualified military~~
17 ~~service; and~~

18 2. Effective January 1, 2007, if any member dies while
19 performing qualified military service (as defined in Section 414(u)
20 of the Internal Revenue Code of 1986, as amended), the survivors of
21 the member are entitled to any additional benefits (other than
22 benefits accruals relating to the period of qualified military
23 service) provided under the System had the member resumed and then
24 terminated employment on account of death.

1 F. Members or beneficiaries shall make application to the
2 System for credited service related to wartime military service.
3 Interest on additional benefits related to wartime military service
4 owed by the System to a retired member or beneficiary as provided by
5 law shall cease accruing one (1) year after the effective date the
6 additional benefits are payable by the System or July 1, 2000,
7 whichever is later, if the member has not applied to the System for
8 credited service related to such wartime military service.

9 SECTION 9. AMENDATORY 47 O.S. 2001, Section 2-305, as
10 last amended by Section 9, Chapter 169, O.S.L. 2009 (47 O.S. Supp.
11 2009, Section 2-305), is amended to read as follows:

12 Section 2-305. A. Except as otherwise provided in this title,
13 at any time after attaining normal retirement date, any member of
14 the Oklahoma Law Enforcement Retirement System upon application for
15 unreduced retirement benefits made and approved, may retire, and,
16 during the remainder of the member's lifetime, receive annual
17 retirement pay, payable in equal monthly payments, equal to two and
18 one-half percent (2 1/2%) of the final average salary times years of
19 credited service. If such retired member is reemployed by a state
20 agency in a position which is not covered by the System, such
21 retired member shall continue to receive in-service distributions
22 from the System. Prior to September 19, 2002, if such retired
23 member was reemployed by a state agency in a position which is
24 covered by the System, such member shall continue to receive in-

1 service distributions from the System and shall not accrue any
2 further credited service. If such a member is reemployed by a state
3 agency in a position which is covered by the System on or after
4 September 19, 2002, such member's monthly retirement payments shall
5 be suspended until such member retires and is not reemployed by a
6 state agency in a position which is covered by the System. No
7 member shall be required to retire for length of service unless and
8 until the member shall have reached the age of sixty (60) years, but
9 ~~any member of the System who shall have reached the age of sixty~~
10 ~~(60) years and who shall also have completed twenty (20) years or~~
11 ~~more of credited service shall be retired by the Board unless, after~~
12 ~~application to the Board and such examination and showing as the~~
13 ~~Board may deem proper, the Board shall determine that such member of~~
14 ~~the System is physically and mentally able to continue to perform~~
15 ~~duties or service as required of a member. Unless such application~~
16 ~~be made by a member of the System within thirty (30) days after~~
17 ~~reaching the age of sixty (60) years and completing twenty (20)~~
18 ~~years or more of credited service or if, after such application and~~
19 ~~examination, the Board shall determine that such member of the~~
20 ~~System is not physically or mentally able to continue to perform~~
21 ~~services as required of the employer, the Board shall by resolution~~
22 ~~order his or her retirement with retirement pay for length of~~
23 ~~service as provided herein.~~

1 B. Beginning July 1, 1994, members who retired or were eligible
2 to retire prior to July 1, 1980 or their surviving spouses shall
3 receive annual retirement pay, payable in equal monthly payments,
4 equal to the greater of their current retirement pay, or two and
5 one-half percent (2 1/2%) of the actual paid gross salary being
6 currently paid to a highway patrol officer, at the time each such
7 monthly retirement payment is made, multiplied by the retired
8 member's years of credited service.

9 C. Members of the System whose salary is set by statute who
10 have retired after completion of the mandatory twenty (20) years of
11 service, and those members with statutory salaries who retire after
12 reaching the mandatory twenty-year retirement, shall receive an
13 annual retirement pay, payable in equal monthly installments, based
14 upon the greater of either:

15 1. The top base pay currently paid to an active member, at the
16 time each such monthly retirement payment is made, multiplied by two
17 and one-half percent (2 1/2%) multiplied by the number of years of
18 credited service and fraction thereof for the following positions:

- 19 a. Oklahoma Highway Patrolman,
- 20 b. Communications Dispatcher,
- 21 c. Capitol Patrolman,
- 22 d. Lake Patrolman,
- 23 e. Oklahoma State Bureau of Investigation-Special Agent;
- 24 or

1 2. The member's final average salary as set forth in paragraph
2 9 of Section 2-300 of this title, multiplied by two and one-half
3 percent (2 1/2%), and multiplied by the number of years of credited
4 service and fraction thereof.

5 No member of the System retired prior to July 1, 2002, shall
6 receive a benefit less than the amount the member is receiving as of
7 June 30, 2002.

8 D. Other members of the System whose retirement benefit is not
9 otherwise prescribed by this section who have retired after
10 completion of the mandatory twenty (20) years of service, and those
11 members who retire after reaching the mandatory twenty-year
12 retirement, shall receive an annual retirement pay, payable in equal
13 monthly payments, based upon the greater of either:

14 1. The actual average salary currently paid to the highest
15 nonsupervisory position in the participating agency, at the time
16 each such monthly payment is made, multiplied by two and one-half
17 percent (2 1/2%), multiplied by the number of years of credited
18 service and fraction thereof for the following positions:

19 a. Alcoholic Beverage Laws Enforcement Commission-ABLE
20 Commission Agent III,

21 b. Oklahoma State Bureau of Narcotics and Dangerous Drugs
22 Control-Narcotics Agent III,

23 c. Oklahoma Tourism and Recreation Department-Park Ranger
24 II,

- d. Oklahoma State Board of Pharmacy—Pharmacy Inspector,
- e. University of Oklahoma—Police Officer,
- f. Oklahoma State University—Police Officer; or

2. The other member's final average salary as set forth in paragraph 9 of Section 2-300 of this title, multiplied by two and one-half percent (2 1/2%), multiplied by the number of years of credited service and fraction thereof.

No member of the System retired prior to July 1, 2002, shall receive a benefit less than the amount the member is receiving as of June 30, 2002. The participating employer must certify to the System in writing the actual average gross salary currently paid to the highest nonsupervisory position. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this section.

E. A member who meets the definition of disability as defined in paragraph 11 of Section 2-300 of this title by direct reason of the performance of the member's duties as an officer shall receive a monthly benefit equal to the greater of fifty percent (50%) of final average salary or two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of the member's credited service. If such member participates in the Oklahoma Law Enforcement Deferred Option Plan pursuant to Section 2-305.2 of this title, then such member's disability pension provided pursuant to

1 this subsection shall be reduced to account for such member's
2 participation in the Oklahoma Law Enforcement Deferred Option Plan.

3 F. A member who meets the definition of disability as defined
4 in paragraph 11 of Section 2-300 of this title and whose disability
5 is by means of personal and traumatic injury of a catastrophic
6 nature and in the line of duty, shall receive a monthly benefit
7 equal to:

8 1. Two and one-half percent (2 1/2%);

9 2. Multiplied by:

10 a. twenty (20) years of service, regardless of the actual
11 number of years of credited service performed by the
12 member prior to the date of disability, if the member
13 had performed less than twenty (20) years of service,
14 or

15 b. the actual number of years of service performed by the
16 member if the member had performed twenty (20) or more
17 years of service;

18 3. Multiplied by a final average salary equal to:

19 a. the salary which the member would have received
20 pursuant to statutory salary schedules in effect upon
21 the date of the disability for twenty (20) years of
22 service prior to disability. The final average salary
23 for a member who performed less than twenty (20) years
24 of service prior to disability shall be computed

1 assuming that the member was paid the highest salary
2 allowable pursuant to the law in effect at the time of
3 the member's disability based upon twenty (20) years
4 of service and with an assumption that the member was
5 eligible for any and all increases in pay based upon
6 rank during the entire period. If the salary of a
7 member is not prescribed by a specific salary schedule
8 upon the date of the member's disability, the final
9 average salary for the member shall be computed by the
10 member's actual final average salary or the highest
11 median salary amount for a member whose salary was
12 prescribed by a specific salary schedule upon the date
13 of the member's disability, whichever final average
14 salary amount would be greater, or

- 15 b. the actual final average salary of the member if the
16 member had performed twenty (20) or more years of
17 service prior to disability.

18 If such member participates in the Oklahoma Law Enforcement
19 Deferred Option Plan pursuant to Section 2-305.2 of this title, such
20 member's disability pension provided pursuant to this subsection
21 shall be adjusted as provided in Section 2-305.2 of this title to
22 account for such member's participation in the Oklahoma Law
23 Enforcement Deferred Option Plan.
24

1 G. A member who meets the definition of disability as defined
2 in Section 2-300 of this title and whose disability occurred prior
3 to the member's normal retirement date but after completing three
4 (3) years of vesting service and not by reason of the performance of
5 the member's duties as an officer or as a result of the member's
6 willful negligence shall receive a monthly benefit equal to two and
7 one-half percent (2 1/2%) of final average salary multiplied by the
8 number of years of the member's credited service.

9 H. Payment of a disability pension shall commence as of the
10 first day of the month coinciding or next following the date of
11 retirement and shall continue as long as the member meets the
12 definition of total and permanent disability provided in this
13 section.

14 I. For the purpose of determining the member's disability under
15 subsection E, F or G of this section, the member shall be required
16 by the Board to be examined by a minimum of two recognized
17 physicians selected by the Board to determine the extent of the
18 member's injury or illness. The examining physicians shall furnish
19 the Board a detailed written report of the injury or illness of the
20 examined member establishing the extent of disability and the
21 possibilities of the disabled member being returned to his or her
22 regular duties or an alternate occupation or service covered by the
23 System after a normal recuperation period. The Board shall require
24 all retired disabled members who have not attained their normal

1 retirement date to submit to a physical examination once each year
2 for a minimum of three (3) years following retirement. The Board
3 shall select a minimum of two physicians to examine the retired
4 members and pay for their services from the fund. Any retired
5 disabled member found no longer disabled by the examining physicians
6 to perform the occupation of the member or an alternate occupation
7 or service covered by the System shall be required to return to duty
8 and complete twenty (20) years of service as provided in subsection
9 A of this section, or forfeit all his or her rights and claims under
10 this act.

11 J. The disability benefit under this section shall be for the
12 lifetime of the member unless such member is found no longer
13 disabled pursuant to subsection I of this section. Such member
14 shall not be entitled to the retirement benefit pursuant to
15 subsection A of this section unless such member returns to active
16 duty and is eligible for a retirement benefit as provided in
17 subsection A of this section.

18 K. At the postoffer, preemployment physical examination
19 required under paragraph 6 of Section 2-300 of this title, the
20 physician selected by the Board shall determine the extent to which
21 a new member is disabled. If a member is determined to be partially
22 disabled, the physician shall assign a percentage of disability to
23 such partial disability. If such member then becomes entitled to a
24 disability benefit under either subsection E or subsection G of this

1 section, the benefit payable shall be reduced by the percentage
2 which such member was determined to be disabled at the postoffer,
3 preemployment physical unless the Board makes a determination that
4 the initially determined percentage of disability at the
5 preemployment physical examination is unrelated to the reason for
6 the disability currently sought pursuant to subsection E or
7 subsection G of this section. Upon employment, the member shall
8 disclose to the Board any disability payments received from any
9 source. The amount of disability to be paid to any member cannot
10 exceed one hundred percent (100%) disability from all sources. The
11 provisions of this subsection shall apply only to members whose
12 effective date of membership is on or after July 1, 2000.

13 L. In addition to the pension provided for under subsection F
14 of this section, if said member has one or more children under the
15 age of eighteen (18) years or under the age of twenty-two (22) years
16 if the child is enrolled full time in and is regularly attending a
17 public or private school or any institution of higher education,
18 Four Hundred Dollars (\$400.00) a month shall be paid from said Fund
19 for the support of each surviving child to the member or person
20 having the care and custody of such children until each child
21 reaches the age of eighteen (18) years or reaches the age of twenty-
22 two (22) years if the child is enrolled full time in and is
23 regularly attending a public or private school or any institution of
24 higher education.

1 M. Notwithstanding any other provisions in Section 2-300
2 through 2-315 of this title, in order to be eligible to receive
3 disability benefits, a member who meets the definition of disability
4 as defined in paragraph 11 of Section 2-300 of this title shall file
5 the member's completed application for disability benefits with the
6 System before such member's date of termination from service and
7 provide such additional information that the System's rules require
8 within six (6) months of the System's receipt of such application.
9 If the member's completed application for disability benefits is not
10 filed with the System before the member's date of termination from
11 service or such additional information as is required under the
12 System's rules is not provided within six (6) months of the System's
13 receipt of such application, such member shall be eligible only for
14 such other benefits as are available to members of the System and
15 shall not be eligible to receive any disability benefits.

16 N. If the requirements of Section 2-305.1C of this title are
17 satisfied, a member who, by reason of disability or attainment of
18 normal retirement date or age, is separated from service as a public
19 safety officer with the member's participating employer may elect to
20 have payment made directly to the provider for qualified health
21 insurance premiums by deduction from his or her monthly disability
22 benefit or monthly retirement payment, after December 31, 2006, in
23 accordance with Section 402(1) of the Internal Revenue Code of 1986,
24 as amended.

1 SECTION 10. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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