RBS No. 1813

An Act

ENROLLED SENATE
BILL NO. 1101

By: Barrington of the Senate

and

Armes, McDaniel (Randy) and
Ritze of the House

An Act relating to the Oklahoma Firefighters Pension and Retirement System; amending 11 O.S. 2011, Sections 29-114, 49-100.1, as last amended by Section 1 of Enrolled House Bill No. 2078 of the 1st Session of the 54th Oklahoma Legislature, 49-101, 49-106.1, as amended by Section 2 of Enrolled House Bill No. 2078 of the 1st Session of the 54th Oklahoma Legislature, 49-106.2, as amended by Section 5, Chapter 364, O.S.L. 2012, 49-106.5, 49-108 and 49-117.1, as amended by Section 3 of Enrolled House Bill No. 2078 of the 1st Session of the 54th Oklahoma Legislature (11 O.S. Supp. 2012, Section 49-106.2), which relate to the administration of the retirement system; modifying reference to Internal Revenue Service ruling; modifying definition; modifying internal statutory references; modifying reference to certain years related to service credit; modifying definition; and declaring an emergency.

SUBJECT: Oklahoma Firefighters Pension and Retirement System

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

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

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

SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-100.1, as last amended by Section 1 of Enrolled House Bill No. 2078 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 49-100.1. As used in this article:

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

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

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

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

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

6. "Member" means all eligible firefighters of a participating municipality or a fire protection district who perform the essential functions of fire suppression, prevention, and life safety duties in a fire department. The term "member" shall include but not be limited to the person serving as fire chief of any participating municipality, provided that a person serving as fire chief of a participating municipality shall meet the age, agility, physical and other eligibility requirements required by law at the time said person becomes a member of the System. Effective July 1, 1987, a

member does not include a "leased employee". The term "leased employee" means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Section 414(n)(6) of the Internal Revenue Code of 1986, as amended) on a substantially full-time basis for a period of at least one (1) year, and such services are performed under primary direction or control by the recipient. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer. A leased employee shall not be considered an employee of the recipient if the requirements of the safe harbor provisions of Section 414(n)(5) of the Internal Revenue Code of 1986, as amended, are satisfied. Effective July 1, 1999, any individual who agrees with the participating municipality that the individual's services are to be performed as a leased employee or an independent contractor shall not be a member regardless of any classification as a common law employee by the Internal Revenue Service or any other governmental agency, or any court of competent jurisdiction;

7. "Normal retirement date" means the date at which the member is eligible to receive the unreduced payments of the member's accrued retirement benefit. Such date shall be the first day following the date the member completes twenty (20) years of credited service. For a member whose first employment with a participating employer of the System occurs on or after November 1, 2013, such date shall be the first day following the date the member completes twenty-two (22) years of credited service and has attained the age of at least fifty (50) years. If the member's employment continues past the normal retirement date of the member, the actual retirement date of the member shall be the first day following the date the member terminates employment with more than twenty (20) years of credited service, or with respect to members who are required to complete twenty-two (22) years of service, the first day following the date the member terminates employment with more than twenty-two (22) years of service and who has also attained the age of at least fifty (50) years;

8. "Credited service" means the period of service used to determine the eligibility for and the amount of benefits payable to

a member. Credited service shall consist of the period during which the member participated in the System or the predecessor municipal systems as an active employee in an eligible membership classification, plus any service prior to the establishment of the predecessor municipal systems which was credited under the predecessor municipal systems; provided, however, "credited service" for members from a fire protection district shall not begin accruing before July 1, 1982;

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

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

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

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

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

14. "Final average salary" means the average paid gross salary of the firefighter for normally scheduled hours over the highest salaried thirty (30) consecutive months of the last sixty (60) months of credited service. Gross salary shall not include payment for accumulated sick or annual leave upon termination of employment, any uniform allowances or any other compensation for reimbursement of out-of-pocket expenses. Only salary on which the required contributions have been made may be used in computing the final

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

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

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

Effective June 9, 2010, gross salary shall also include gross salary, as described above, for services, but paid by the later of two and one-half (2 1/2) months after a firefighter's severance from

employment or the end of the calendar year that includes the date the firefighter terminated employment, if it is a payment that, absent a severance from employment, would have been paid to the firefighter while the firefighter continued in employment with the participating municipality.

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

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

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

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

16. "Beneficiary" means a member's surviving spouse or any surviving children, including biological and adopted children, at the time of the member's death. The surviving spouse must have been married to the firefighter for the thirty (30) continuous months preceding the firefighter's death provided a surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for a participating municipality, shall not be subject to the marriage limitation for survivor benefits. A

surviving child of a member shall be a beneficiary until reaching eighteen (18) years of age or twenty-two (22) years of age if the child is enrolled full time and regularly attending a public or private school or any institution of higher education. Any child adopted by a member after the member's retirement shall be a beneficiary only if the child is adopted by the member for the thirty (30) continuous months preceding the member's death. Any child who is adopted by a member after the member's retirement and such member dies accidentally or as a consequence of the performance of the member's duty as a firefighter shall not be subject to the thirty-month adoption requirement. This definition of beneficiary shall be in addition to any other requirement set forth in this article;

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

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

SECTION 3. AMENDATORY 11 O.S. 2011, Section 49-101, is amended to read as follows:

Section 49-101. A. All retired volunteer fire fighters who qualify for retirement shall be entitled to a monthly pension. The monthly pension of a volunteer fire fighter shall be in the amount retired volunteer fire fighters are receiving at the time the volunteer fire fighter begins to receive a pension for each year of credited service not to exceed thirty (30) years. In determining the number of years of credited service, a fractional year of six (6) months or more shall be counted as one (1) full year and a fractional year of less than six (6) months shall not be counted in such determination. Retired volunteer fire fighters of a municipality shall receive a pension of not less than that which

retired volunteer fire fighters of such municipality were receiving on June 30, 1985.

B. If a volunteer fire fighter whose first service with a participating employer of the System occurs prior to November 1, 2013, terminates service after completing ten (10) years of credited service, the volunteer fire fighter shall receive a vested benefit. The volunteer fire fighter whose first service with a participating employer of the System occurs prior to November 1, 2013, shall be entitled to a monthly pension commencing on the date the fire fighter reaches fifty (50) years of age or the date the fire fighter would have had twenty (20) years of credited service had the fire fighter's service continued uninterrupted, whichever is later. If a volunteer fire fighter whose first service with a participating employer of the System occurs on or after November 1, 2013, terminates service after completing eleven (11) years of credited service, the volunteer fire fighter shall receive a vested benefit. The volunteer fire fighter whose first service with a participating employer of the System occurs on or after November 1, 2013, shall be entitled to a monthly pension commencing on the date the fire fighter reaches fifty (50) years of age or the date the fire fighter would have had twenty-two (22) years of credited service had the fire fighter's service continued uninterrupted, whichever is later. The monthly amount of such retirement benefit shall be the amount being paid to volunteer fire fighters at the time the member vests multiplied by the number of years of credited service. Credited service must be established at the time of the volunteer fire fighter's termination. If a volunteer fire fighter who terminates employment and receives a vested benefit dies prior to being eligible to receive benefits, the volunteer fire fighter's beneficiary shall be entitled to the volunteer fire fighter's normal monthly retirement benefit on the date the deceased volunteer fire fighter would have been eligible to receive the benefit.

SECTION 4. AMENDATORY 11 O.S. 2011, Section 49-106.1, as amended by Section 2 of Enrolled House Bill No. 2078 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 49-106.1. A. In lieu of terminating employment and accepting a service retirement pension pursuant to Sections 49-101 and 49-106 of this title, any member of the Oklahoma Firefighters

Pension and Retirement System serving as an active firefighter in a fire department of a participating municipality who has not less than twenty (20) years of creditable service, or any member of the Oklahoma Firefighters Pension and Retirement System whose first employment with a participating employer of the System occurs on or after November 1, 2013, and who has not less than twenty-two (22) years of creditable service and who is eligible to receive a service retirement pension may elect to participate in the Oklahoma Firefighters Deferred Option Plan and defer the receipts of benefits in accordance with the provisions of this section.

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

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

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

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

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

3. Effective November 1, 2013, the Oklahoma Firefighters Deferred Option Plan account for a member whose first service with a participating municipality of the System occurs on or after November 1, 2013, and who participates for the first time in the Oklahoma Firefighters Deferred ~~Retirement~~ Option Plan on or after November 1, 2013, and ~~who elects to receive any other method of payment as approved by the Board of Trustees, after completion of~~ has completed active participation in the Oklahoma Firefighters Deferred ~~Retirement~~ Option Plan, shall earn interest at a rate equal to the actual rate of return of the investment portfolio of the System, less ~~a minimum of~~ one (1) percentage point to offset administrative costs of the System as determined by the System. ~~A retired member may leave his or her balance in the Deferred Retirement Option Plan account until the age of seventy and one-half (70 1/2) years, at which time the retired member shall withdraw his or her entire Deferred Retirement Option Plan account balance.~~

F. A member in the plan shall receive, at the option of the member, a lump-sum payment from the account equal to the payments to the account or an annuity based upon the account of the member or may elect any other method of payment if approved by the Board of Trustees. If a member becomes so physically or mentally disabled while in, or in consequence of, the performance of his or her duty as to prevent the effective performance of his or her duties that the State Board approves an in-line-of-duty disability pension, the payment from the account shall be an in-line-of-duty disability payment. Notwithstanding any other provision contained herein to the contrary, commencement of distributions under the Oklahoma Firefighters Deferred Option Plan shall be no later than the time as set forth in subsection B of Section 49-106 of this title and a member whose first service with a participating municipality of the System occurs on or after November 1, 2013, and who participates for

the first time in the Oklahoma Firefighters Deferred Option Plan on or after November 1, 2013, must receive a distribution of the entire remaining balance in the member's Oklahoma Firefighters Deferred Option Plan account no later than April 1 of the calendar year following the later of:

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

2. The actual retirement date of the member.

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

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

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

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

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

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

d. "deferred benefit balance" means all monthly retirement benefits that would have been payable had the member elected to cease employment on the back drop date and receive a service retirement from the back drop date to the termination date, all the member's contributions and one-half (1/2) of the employer contributions from the back drop date to the termination date, with interest based on how the benefit would have accumulated on a compound annual basis as if the member had participated in the Oklahoma Firefighters Deferred Option Plan pursuant to subsections A, B, C, D, E and F of this section from the back drop date to the termination date; and

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

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

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

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

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

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

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

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

2. If a member who has more than twenty (20) years of creditable service and is eligible to receive a service, or a member of the Oklahoma Firefighters Pension and Retirement System whose first employment with a participating employer of the System occurs on or after November 1, 2013, and such member has more than twenty-two (22) years of creditable service, retirement pension dies on or after June 4, 2007, and prior to terminating employment, the member's surviving spouse 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 such member's death. Prior to July 1, 2010, the surviving spouse must make any such election within one (1) year from the date of the member's death. Effective July 1, 2010, the surviving spouse must make any such election within ninety (90) days from the date of the member's death. If on or after June 4, 2007, such election is made, the monthly pension such surviving spouse is 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 surviving spouse may only make this election if the member has not previously elected to participate in the Oklahoma Firefighters Deferred Option Plan. For purposes of this election, the surviving spouse must have been married to the firefighter for the thirty (30) continuous months preceding the firefighter's death; provided, the surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for a participating municipality shall not be subject to the marriage limitation for this election.

3. If a member has more than twenty (20) years of creditable service, or a member of the Oklahoma Firefighters Pension and Retirement System whose first employment with a participating employer of the System occurs on or after November 1, 2013, and such member has more than twenty-two (22) years of creditable service and is eligible to receive a service retirement pension, and is eligible for a retirement for disability monthly pension pursuant to Section 49-109 of this title on or after June 4, 2007, 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 disability retirement, provided such election is made within two (2) years from the date of the member's disability retirement. The disability 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 receive shall be reduced by the 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.

4. If a member has more than twenty (20) years of creditable service, or a member of the Oklahoma Firefighters Pension and Retirement System whose first employment with a participating employer of the System occurs on or after November 1, 2013, and such member has more than twenty-two (22) years of creditable service and is eligible to receive a service retirement pension, and filed a grievance for wrongful termination occurring on or after 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 receive shall be reduced by the 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.

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

modification or as modified to conform to any changes required by the Internal Revenue Service as part of its determination letter review process, then subparagraphs d and e of paragraph 1 and paragraphs 3 and 4 of this subsection shall be repealed effective June 4, 2007.

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

Section 49-106.2. A. For limitation years prior to July 1, 2007, the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, shall be computed in accordance with the applicable provisions of the System in effect at that time and, to the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-51, except as provided below. Notwithstanding any other provision contained herein to the contrary, the benefits payable to a member from the System provided by employer contributions (including contributions picked up by the employer under Section 414(h) of the Internal Revenue Code of 1986, as amended) shall be subject to the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, in accordance with the provisions of this section. The 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 severance 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 of each such annuity starting date (and shall satisfy the limitations of this section as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to Section 1.401(a)-20, Q&A 10(d), and with regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.

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

   a. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the member's benefit were paid in another form,

   b. benefits that are not directly related to retirement benefits such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits, or

   c. the inclusion in the form of benefit of an automatic benefit increase feature, provided, the form of benefit is not subject to Section 417(e)(3) of the Internal Revenue Code of 1986, as amended, and would otherwise satisfy the limitations of this section, and the System provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this section applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Internal Revenue Code of 1986, as amended. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for

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

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

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

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

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

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

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

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

c. Limitation Years Beginning Before July 1, 2007. For limitation years beginning before July 1, 2007, 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:

(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.

d. Limitation Year Beginning On January 1, 2008. For the limitation year beginning on January 1, 2008, 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 purposes, if applicable) for that annuity starting date.

e. Limitation Years Beginning On or After July 1, 2008. For limitation years beginning on or after July 1,

2008, 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 within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Revenue Ruling 2007-67 (and subsequent guidance) for that annuity starting date.

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

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

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

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

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

(3) 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, computing using:

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

(b) the applicable mortality table within the meaning of Section 417(e)(3)(B) of the

Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance),

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

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

(1) 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 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,

(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 and one-half percent (5.5%) interest rate assumption and the applicable mortality table described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable), and

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

Internal Revenue Code of 1986, as amended, for the fourth calendar month preceding the plan year in which falls the annuity starting date for the distribution and the stability period is the successive period of one (1) plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, or as otherwise provided in the applicable guidance if the first day of the first plan year beginning after December 31, 2007, does not coincide with the first day of the applicable stability period, 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).

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

(1) 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 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,

(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 and one-half percent (5.5%) interest rate assumption and the applicable mortality table

described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable), and

(3) 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) the rate of interest on thirty-year Treasury securities as specified by the Commissioner for the lookback month for the stability period specified below. The lookback month applicable to the stability period is the fourth calendar month preceding the first day of the stability period, as specified below. The stability period is the successive period of one (1) plan year which contains the annuity starting date for the distribution and for which the applicable 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).

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

(2) If the annuity starting date of the member's benefit is on or after the first day of the first plan year beginning in 2004 and before December 31, 2004, the application of this subparagraph shall not cause the amount payable under the member's form of benefit to be less than the benefit calculated under the System, taking into account the limitations of this section, except that 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 greatest annual amount:

(a) the interest rate and 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,

(b) i. the rate of interest on thirty-year Treasury securities as specified by the Commissioner for the lookback month for the stability period specified below. The lookback month applicable to the stability period is the fourth calendar month preceding the first day of the stability period, as specified below. The stability period is the successive period of one (1) plan year which

contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, and

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

(c) i. the rate of interest on thirty-year Treasury securities as specified by the Commissioner for the lookback month for the stability period specified below. The lookback month applicable to the stability period is the fourth calendar month preceding the first day of the stability period, as specified below. The stability period is the successive period of one plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant (as in effect on the last day of the last plan year beginning before January 1, 2004, under provisions of the System then adopted and in effect), and

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

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

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

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

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

(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, or

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

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

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

(a) If the annuity starting date for the member's benefit is prior to sixty-two (62) years of age and occurs in the limitation year beginning on January 1, 2008, and the System does not have an immediately commencing straight life annuity payable at both sixty-two (62) years of age and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for the annuity starting date as described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable) (and expressing the member's age based on completed calendar months as of the annuity starting date).

(b) If the annuity starting date for the member's benefit is prior to sixty-two (62) years of age and occurs in a limitation year beginning on or after January 1, 2009, and the System does not have an immediately commencing straight life annuity payable at both sixty-two (62) years of age and the age

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

(2) System Has Immediately Commencing Straight Life Annuity Payable at Both Sixty-two (62) Years of Age and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to sixty-two (62) years of age and occurs in a limitation year beginning on or after July 1, 2007, and the System has an immediately commencing straight life annuity payable at both sixty-two (62) years of age and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the lesser of the limitation determined under division (1) of this subparagraph ~~b of this paragraph~~ and the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the System at the member's annuity starting date to the annual amount of the immediately commencing straight

life annuity under the System at sixty-two (62) years of age, both determined without applying the limitations of this section.

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

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

(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, or

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

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

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

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

year beginning on January 1, 2008, and the System does not have an immediately commencing straight life annuity payable at both sixty-five (65) years of age and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for the annuity starting date as described in Revenue Ruling 2001-62 (or its successor for these purposes, if applicable) (and expressing the member's age based on completed calendar months as of the annuity starting date).

(b) If the annuity starting date for the member's benefit is after sixty-five (65) years of age and occurs in a limitation year beginning on or after January 1, 2009, and the System does not have an immediately commencing straight life annuity payable at both sixty-five (65) years of age and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence

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

(2) System Has Immediately Commencing Straight Life Annuity Payable at Both Sixty-five (65) Years of Age and Age of Benefit Commencement. If the annuity starting date for the member's benefit is after sixty-five (65) years of age and occurs in a limitation year beginning on or after July 1, 2007, and the System has an immediately commencing straight life annuity payable at both sixty-five (65) years of age and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the lesser of the limitation determined under division (1) of this subparagraph ~~b of this paragraph~~ and the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the System at the member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the System at sixty-five (65) years of age, both determined without applying the limitations of this section. For this purpose, the adjusted immediately commencing straight life annuity under the System at the member's annuity starting date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after sixty-five (65) years of age but including actuarial adjustments even if those actuarial adjustments are used to offset

accruals; and the adjusted immediately commencing straight life annuity under the System at sixty-five (65) years of age is the annual amount of such annuity that would be payable under the System to a hypothetical member who is sixty-five (65) years of age and has the same accrued benefit as the member.

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

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

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

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

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

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

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

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

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

H. ~~Effective for years beginning after December 31, 1997, if~~ If a member purchases service credit under ~~Sections 49-117.2 and 49-117.3 of this title~~ the System, which qualifies as "permissive service credit" pursuant to Section 415(n) of the Internal Revenue

Code of 1986, as amended, the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, may be met by either:

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

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

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

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

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

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

SECTION 6. AMENDATORY 11 O.S. 2011, Section 49-106.5, is amended to read as follows:

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

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

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

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

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

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

B. As used in this section:

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

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

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

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

SECTION 7. AMENDATORY 11 O.S. 2011, Section 49-108, is amended to read as follows:

Section 49-108. A. Any volunteer fire fighter who is appointed as a paid fire fighter whose first service with a participating employer of the System occurs prior to November 1, 2013, and serves less than ten (10) years as a paid fire fighter, shall be entitled to receive one-twentieth (1/20) of a volunteer pension earned over twenty (20) years for each full year served as a volunteer fire fighter and one-twentieth of one-half (1/20 of 1/2) of the average salary received for each full year the fire fighter served as a paid fire fighter. Any volunteer fire fighter who is appointed as a paid fire fighter whose first service with a participating employer of the System occurs on or after November 1, 2013, and serves less than eleven (11) years as a paid fire fighter, shall be entitled to receive one-twenty-second (1/22) of a volunteer pension earned over twenty-two (22) years for each full year served as a volunteer fire fighter and one-twenty-second of fifty-five percent (1/22 of 55%) of the average salary received for each full year the fire fighter served as a paid fire fighter.

B. Any volunteer fire fighter who is appointed as a paid fire fighter after ~~the effective date of this act~~ May 15, 1992, whose first service with a participating employer of the System occurs prior to November 1, 2013, and serves ten (10) or more years as a paid fire fighter, shall be entitled to credit no more than five (5) years of volunteer time to complete a twenty-year paid service pension with remaining volunteer time computed at one-twentieth (1/20) of a volunteer pension earned over twenty (20) years for each additional volunteer year. Any volunteer fire fighter who is appointed as a paid fire fighter before ~~the effective date of this act~~ May 15, 1992, and serves ten (10) or more years as a paid fire fighter, shall be entitled to credit all of the fire fighter's volunteer time to complete a twenty-year paid service pension. Any volunteer fire fighter who is appointed as a paid fire fighter whose first service with a participating employer of the System occurs on or after November 1, 2013, and serves eleven (11) or more years as a

paid fire fighter, shall be entitled to credit no more than five (5) years of volunteer time to complete a twenty-two-year paid service pension with remaining volunteer time computed at one-twenty-second (1/22) of a volunteer pension earned over twenty-two (22) years for each additional volunteer year.

C. For purposes of determining benefits pursuant to this section, total credited service for paid and volunteer service shall not exceed thirty (30) years; provided, the most recent years of service shall be used in determining total credited service for paid and volunteer service.

D. Nothing contained in this section shall be construed to create an eligibility for pension which is not otherwise provided by law.

SECTION 8. AMENDATORY 11 O.S. 2011, Section 49-117.1, as amended by Section 3 of Enrolled House Bill No. 2078 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

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

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

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

D. If the member who has completed ten (10) or more years of credited service as prescribed by subsection B of this section

elects the vested benefit, the member shall be entitled to a monthly retirement annuity commencing on the date the member reaches fifty (50) years of age or the date the member would have had twenty (20) years of credited service had the member's employment continued uninterrupted, whichever is later. The annual amount of such retirement annuity shall be equal to two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of credited service not to exceed thirty (30) years. The death benefits provided for in ~~this article~~ Section 49-113.2 of this title shall not apply to any member retiring under the provisions of this section.

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

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

G. If a member terminates employment and withdraws the member's accumulated contributions and then subsequently rejoins the System, he may pay to the System the sum of the accumulated contributions he has withdrawn plus five percent (5%) annual interest from the date of withdrawal and shall receive the same benefits as if he had never withdrawn his contributions; however, effective January 1, 1991, the rate of interest provided herein shall be ten percent (10%) per annum.

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

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

SECTION 9. Sections 2, 3, 4, 7 and 8 of this act shall be effective November 1, 2013.

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

Passed the Senate the 20th day of May, 2013.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of May, 2013.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 23rd
day of May, 20 13, at 11:45 o'clock A M.
By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 29th
day of May, 20 13, at 4:18 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 29th
day of May, 20 13, at 5:25 o'clock P. M.
By: Chris Mannix

Thomas E. Cummins Consulting Actuary, Inc.
2512 E. 71st Street, Suite D (918)492.9658 Fax (918)492.9659
Tulsa, OK 74136

May 9, 2013

Senator Barrington
Room 515A

Re: Conference Committee Substitute for Engrossed Senate Bill No. 1101
RBS No. 1813

Conference Committee Substitute for Engrossed Senate Bill No. 1101 contains language necessary for the Oklahoma Firefighters Pension and Retirement System to remain an IRS qualified plan.

Those entering the system on after November 1, 2013

> Volunteers: Vest after 11 years of service, payable at the later of age 50 or would have 22 years of service.
> DROP: interest credit 1% less than actual return and withdrawal by age 70.5 or actual retirement date if later

Conference Committee Substitute for Engrossed House Senate Bill No. 1101 is a nonfiscal retirement bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act.

Thomas E. Cummins

Thomas E. Cummins, MAAA