

**STATUTES PERTAINING
TO THE
OKLAHOMA FIREFIGHTERS
PENSION AND RETIREMENT
SYSTEM**

Including Amendments Through 2008 Legislative Session

TITLE ELEVEN

OKLAHOMA STATUTES

FIREFIGHTERS PENSION AND RETIREMENT SYSTEM

§49-100.1 Definitions

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 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. 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;

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;

10. "Disability" means the complete inability of the firefighter to perform any and every duty of his 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 or a 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 his 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 subsection;

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.

Added by Laws 1980, c. 352, § 1, eff. Jan. 1, 1981. Amended by Laws 1982, c. 320, § 1, operative July 1, 1982; Laws 1985, c. 222, § 1, emerg. eff. July 8, 1985; Laws 1987, c. 236, § 142, emerg. eff. July 20, 1987; Laws 1988, c. 267, § 1, operative July 1, 1988; Laws 1990, c. 143, § 1, emerg. eff. May 1, 1990; Laws 1991, c. 323, § 1, emerg. eff. June 12, 1991; Laws 1992, c. 390, § 1, emerg. eff. June 9, 1992; Laws 1993, c. 126, § 1, emerg. eff. May 3, 1993; Laws 1994, c. 84, § 1, eff. July 1, 1994; Laws 1994, c. 300, § 1, eff. July 1, 1994; Laws 1996, c. 208, § 1, emerg. eff. May 21, 1996; Laws 1998, c. 299, § 1, emerg. eff. May 28, 1998; Laws 1999, c. 193, § 1, eff. July 1, 1999; Laws 2000, c. 327, § 1, eff. July 1, 2000; Laws 2002, c. 398, § 1, eff. July 1, 2002; Laws 2003, c. 128, § 1, eff. July 1, 2003.

§49-100.2. Firefighters Pension and Retirement System - Creation - Powers and duties.

There is created the Oklahoma Firefighters Pension and Retirement System which shall be a body corporate and an instrumentality of this state. The System shall be vested with the powers and duties specified in this article and such other powers as may be necessary to enable it and its officers and employees to carry out fully and effectively the purposes and intent of this article. All assets of the System shall be held in trust for the exclusive purpose of providing benefits for the members and beneficiaries of the System or defraying reasonable expenses of administering the System, and shall not be encumbered for or diverted to any other purpose or purposes. This System shall be the responsibility of the state and not that of the participating municipalities. The System is a qualified governmental retirement plan under Sections 401(a) and 414(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C.A. §§ 401, 414) and Section 3(32) of the Employee Retirement Income Security Act of 1974 (29 U.S.C.A. §1002(32)). The Board shall administer the System in order to comply with the applicable provisions of the Internal Revenue Code of 1986, as amended.

Added by Laws 1980, c. 352, § 2, eff. Jan. 1, 1981. Amended by Laws 2000, c. 327, § 2, eff. July 1, 2000; Laws 2002, c. 398, § 2, eff. July 1, 2002.

§49-100.3. Firefighters Pension and Retirement Board.

A. There shall be an Oklahoma Firefighters Pension and Retirement Board which shall be composed of thirteen (13) members as follows:

1. Five members shall be the Board of Trustees of the Oklahoma Firefighters Association;
2. One member shall be the President of the Professional Fire Fighters of Oklahoma or his designee. The designee shall be a member of the Professional Fire Fighters of Oklahoma;
3. One member shall be the President of the Oklahoma State Retired Fire Fighters Association or his designee. The designee shall be a member of the Oklahoma State Retired Fire Fighters Association;
4. One member shall be appointed by the Speaker of the House of Representatives;
5. One member shall be appointed by the President Pro Tempore of the Senate;
6. Two members shall be appointed by the President of the Oklahoma Municipal League;
7. One member shall be the State Insurance Commissioner or his designee; and

8. One member shall be the Director of State Finance or his designee.

B. 1. The terms of office of the members appointed to the State Board by the President of the Oklahoma Municipal League who are members of the State Board on the operative date of this act shall expire on July 1, 1989. The members appointed to fill the positions that expire on July 1, 1989, shall serve initial terms of office as follows:

- a. the term of office of one of the members appointed by the President of the Oklahoma Municipal League shall expire on July 1, 1990; and
- b. the term of office of one of the members appointed by the President of the Oklahoma Municipal League shall expire on July 1, 1992.

Thereafter, the terms of office of the members of the State Board appointed by the President of the Oklahoma Municipal League shall be four (4) years.

2. The term of office of the member appointed to the State Board by the Speaker of the House of Representatives and the term of office of the member appointed to the State Board by the President Pro Tempore of the Senate who are members of the State Board on the operative date of this act shall expire on January 3, 1989. The members thereafter appointed shall serve terms of office of four (4) years.

3. Vacancies shall be filled for the unexpired term of office in the same manner as the original appointment was made.

C. Those members appointed to the State Board by the President of the Oklahoma Municipal League, the Speaker of the House of Representatives and the President Pro Tempore of the Senate or who are designees of an ex officio member of the State Board shall:

1. Have demonstrated professional experience in investment or funds management, public funds management, public or private pension fund management or retirement system management; or
2. Have demonstrated experience in the banking profession and have demonstrated professional experience in investment or funds management; or
3. Be licensed to practice law in this state and have demonstrated professional experience in commercial matters; or
4. Be licensed by the Oklahoma State Board of Public Accountancy to practice in this state as a public accountant or a certified public accountant.

The appointing authorities, in making appointments that conform to the requirements of this subsection, shall give due consideration to balancing the appointments among the criteria specified in paragraphs 1 through 4 of this subsection.

D. No member of the State Board shall be a lobbyist registered in this state as provided by law.

E. Notwithstanding any of the provisions of this section to the contrary, any person serving as an appointed member of the State Board on the operative date of this act shall be eligible for reappointment when the term of office of the member expires.

F. The State Board shall elect one of its members as Chairman at its annual meeting. The Chairman shall preside over meetings of the State Board and perform such other duties as may be required by the State Board. The State Board shall also elect another member to serve as Vice Chairman, and the Vice Chairman shall perform duties of Chairman in the absence of the latter or upon the Chairman's inability or refusal to act.

G. Prior to February 6, 1995, the State Board shall be prevented from making any payment or granting any benefit, with the exception of disability benefits for which provisions are otherwise made in Section 49-100.1 et seq. of this title, the actuarial liability for which has not been included in such Board's annual actuarial report prior to May 1, 1994.

H. The State board shall adopt a cost of living adjustment actuarial assumption in its annual actuarial valuation report.

Added by Laws 1980, c. 352, § 3, eff. Jan. 1, 1981. Amended by Laws 1988, c. 321, § 1, operative July 1, 1988; Laws 1994, c. 383, § 1, eff. July 1, 1994. Amended by Laws 2004, c. 536, § 1, eff. July 1, 2004.

§49-100.4. Meetings - Special meetings - Notice - Quorum - Per diem - Expenses.

A. The State Board shall hold regular meetings in Oklahoma City at least once each quarter, the dates, time, and place to be fixed by the State Board. The State Board shall hold a regular meeting in July of each year which meeting shall be the annual meeting at which it shall elect its Chairman. Special meetings may be called upon written call of the Chairman or by agreement of any eight (8) members of the State Board. Notice of a special meeting shall be delivered to all State Board members in person or by registered or certified United States mail not less than seven (7) days prior to the date fixed for the meeting; provided, however, that notice of such meeting may be waived by any member either before or after such meeting and attendance at such meeting shall constitute a waiver of notice of such meeting, unless a member participates therein solely to object to the transaction of any business because the meeting has not been legally called or convened.

B. Seven (7) State Board members shall constitute a quorum for the transaction of business, but any official action of the State Board shall be based upon a favorable vote by at least seven (7) State Board members at a regular or special meeting of the State Board.

C. Members shall receive per diem at the rate of Twenty-five Dollars (\$25.00) per day for each day in session and shall be reimbursed for necessary expenditures including mileage to and from meetings in accordance with the State Travel Reimbursement Act, which shall be paid as an operating expense from the appropriate operating fund of the System.

Added by Laws 1980, c. 352, § 4, eff. Jan. 1, 1981. Amended by Laws 1988, c. 321, § 2, operative July 1, 1988

§49-100.5. Office facilities - Records - Inspection - Financial statement - Audits.

A. The principal office of the System shall be in Oklahoma City, Oklahoma. Offices shall be assigned to the System by the Department of Central Services. Upon the failure or inability of the Department of Central Services to provide adequate facilities, the State Board is hereby authorized to contract for necessary office space in suitable quarters.

B. The State Board shall keep a record of all of its proceedings, which shall be open for inspection at all reasonable hours. A report including such information as the operation of the System for the past fiscal year, including income, disbursements, and the financial condition of the System at the end of each fiscal year and showing the valuation of its assets, investments, and liabilities, shall be delivered to the Governor after the end of each fiscal year but prior to October 1 of the next fiscal year and made available to the firefighters and participating municipalities.

C. The State Auditor and Inspector shall make an annual audit of the accounts of the System. The audit shall be filed as soon after the close of the fiscal year as practicable, in accordance with the requirements for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes.

Added by Laws 1980, c. 352, § 5, eff. Jan. 1, 1981. Amended by Laws 1983, c. 304, § 6, eff. July 1, 1983; Laws 1985, c. 222, § 2, emerg. eff. July 8, 1985; Laws 1996, c. 290, § 2, eff. July 1, 1996.

§49-100.6. Executive Director - Employees - Acceptance of gifts and gratuities - Actuary - Legal services.

A. The State Board shall appoint an Executive Director. Subject to the policy direction of the State Board, the Executive Director shall be the managing and administrative officer of the System and as such shall have charge of the office, records, and supervision and direction of the employees of the System.

B. The Executive Director shall recommend to the State Board the administrative organization, the number and qualifications of employees necessary to carry out the intent of this article, and the policy direction of the State Board. Upon approval of the organizational plan by the State Board, the Executive Director may employ such persons as are deemed necessary to administer this article.

C. The members of the State Board, the Executive Director and the employees of the System shall not accept gifts or gratuities from an individual organization with a value in excess of the amount per

year permitted by the Ethics Commission for all state officials and employees pursuant to Rule 257:20-1-9(b) of the Ethics Commission Rules. The provisions of this section shall not be construed to prevent the members of the State Board, the Executive Director or the employees of the System from attending educational seminars, conferences, meetings or similar functions which are paid for, directly or indirectly, by more than one organization.

D. The State Board may select and retain a qualified actuary who shall serve at its pleasure as its technical advisor or consultant on matters regarding the operation of the System. The actuary may at the direction of the State Board:

1. Make an annual valuation of the liabilities and reserves of the System, and a determination of the contributions required by the System to discharge its liabilities and administrative costs under this article, and recommend to the State Board rates of employer contributions required to establish and maintain the System on an adequate reserve basis;

2. As soon after the effective date of this act or as deemed necessary by the State Board, make a general investigation of the actuarial experience under the System, including mortality, retirement, employment turnover, and interest, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; and

3. Perform such other duties as may be assigned by the State Board.

E. The State Board shall retain an attorney licensed to practice law in this state. The attorney shall serve at the pleasure of the State Board for such compensation as set by the State Board. The Attorney General of the state shall furnish such legal services as may be required by the State Board.

Added by Laws 1980, c. 352, § 6, eff. Jan. 1, 1981. Amended by Laws 1988, c. 321, § 3, operative July 1, 1988; Laws 1994, c. 383, § 2, eff. July 1, 1994; Laws 2000, c. 327, § 3, eff. July 1, 2000.

§49-100.7. Administration of System - Rules and regulations - Accounts and records - Open meetings - Actuarial tables - Decisions of Board - Actions.

A. The State Board shall be responsible for the policies and rules for the general administration of the System, subject to the provisions of this article.

B. The State Board shall establish rules and regulations for the administration of the System and for the transaction of its business consistent with law, which rules and regulations shall be filed with the Secretary of State.

C. The State Board shall be responsible for the installation or provision of a complete and adequate system of accounts and records.

D. All meetings of the State Board shall be open to the public. The State Board shall keep a record of its proceedings.

E. The State Board may adopt all necessary actuarial tables to be used in the operation of the System as recommended by the actuary and may compile such additional data as may be necessary for required actuarial valuation calculations.

F. All decisions of the State Board as to questions of fact shall be final and conclusive on all persons except for the right of review as provided by law and except for fraud or such gross mistake of fact as to have effect equivalent to fraud.

G. The State Board shall take all necessary action upon applications for pensions, disability benefits, refund of accumulated contributions and shall take action on all other matters deemed necessary by the State Board, including bringing actions for declaratory relief in the district courts in the state to enforce the provisions of applicable state law.

Added by Laws 1980, c. 352, § 7, eff. Jan. 1, 1981. Amended by Laws 1985, c. 222, § 3, emerg. eff. July 8, 1985; Laws 1988, c. 321, § 4, operative July 1, 1988; Laws 2006, 2nd Ex. Sess., c. 46, § 11, eff. July 1, 2006.

Comment [1]: BDERIV

§49-100.8. Certified estimate of rate of contribution required, accumulated contributions and other assets of System.

The State Board shall certify to the Director of State Finance, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate, on or before July 15 of each year, an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the System to pay by level-dollar payments all liabilities which shall exist or accrue pursuant to the provisions of the System, including amortization of the unfunded accrued liability over a period of not to exceed thirty (30) years beginning July 1, 2003.

Added by Laws 1982, c. 320, § 6, operative July 1, 1982. Amended by Laws 1983, c. 143, § 5, emerg. eff. May 26, 1983; Laws 1988, c. 267, § 2, operative July 1, 1988; Laws 2003, c. 334, § 1, emerg. eff. May 29, 2003.

§49-100.9. Duties of Board.

A. The Oklahoma Firefighters Pension and Retirement Board shall discharge their duties with respect to the System solely in the interest of the participants and beneficiaries and:

1. For the exclusive purpose of:
 - a. providing benefits to participants and their beneficiaries, and
 - b. defraying reasonable expenses of administering the System;

2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

3. By diversifying the investments of the System so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

4. In accordance with the laws, documents and instruments governing the System.

B. The State Board may procure insurance indemnifying the members of the State Board from personal loss or accountability from liability resulting from a member's action or inaction as a member of the State Board.

C. The State Board may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the State Board appointed by the chairman of the State Board. The committee shall make recommendations to the full State Board on all matters related to the choice of custodians and managers of the assets of the System, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the State Board in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the State Board nor take effect without the approval of the State Board as provided by law.

D. The Board shall retain qualified investment managers to provide for the investment of the monies of the System. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the State Board. Subject to the overall investment guidelines set by the State Board, the investment managers shall have full discretion in the management of those monies of the System allocated to the investment managers. The State Board shall manage those monies not specifically allocated to the investment managers. The monies of the System allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

E. Funds and revenues for investment by the investment managers or the State Board shall be placed with a custodian selected by the State Board. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the State Board. In compliance with the investment policy guidelines of the State Board, the custodian bank or trust

company shall be contractually responsible for ensuring that all monies of the System are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the System as to the investment of the monies of the System in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the State Board for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

F. By November 1, 1988, and prior to August 1 of each year thereafter, the State Board shall develop a written investment plan for the System.

G. The State Board shall compile a quarterly financial report of all the funds of the System on a fiscal year basis. The report shall be compiled pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The State Board shall include in the quarterly reports all commissions, fees or payments for investment services performed on behalf of the State Board. The report shall be distributed to the Governor, the Oklahoma State Pension Commission, the Legislative Service Bureau, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

H. After July 1 and before December 1 of each year, the State Board shall publish widely an annual report presented in simple and easily understood language pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Oklahoma State Pension Commission and the members of the System. The annual report shall cover the operation of the System during the past fiscal year, including income, disbursements, and the financial condition of the System at the end of the fiscal year. The annual report shall also contain the information issued in the quarterly reports required pursuant to subsection G of this section as well as a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over funded status, contributions and any other information deemed relevant by the State Board. The annual report shall be written in such a manner as to permit a readily understandable means for analyzing the financial condition and performance of the System for the fiscal year. In order to standardize the information and analysis of the financial condition of the System, the Board shall provide information regarding the financial and actuarial condition of the System using assumptions or requirements as hereinafter required for the report stating the condition of the System as of July 1, 2002, and for each subsequent reporting date, which information shall be contained in an appendix or addendum to the annual report. For purposes other than the reporting requirements contained in the appendix or addendum, all actuarial and economic assumptions shall be those assumptions adopted by the System in its annual actuarial valuation. The appendix or addendum shall contain a statement of the financial condition of the System:

1. Using an assumed rate of return of seven and one-half percent (7.5%), net of investment expenses, per annum, compounded annually;
2. Using an actuarial assumption regarding cost-of-living adjustments for the System of two percent (2%) annually;
3. That relies upon the use of appropriate preretirement, postretirement and disability retirement information using generational projections taken from the RP-2000 Mortality Tables, published by the Society of Actuaries;
4. Which accurately and completely summarizes all sources of system assets, other than employee contributions, which shall include, but not be limited to, the total of all employer contributions, any dedicated tax or fee revenue of whatever kind or however denominated, and the total amount of any

other source of revenue which accrues to the System, other than return on investments, such as federal monies used for the purpose of making employer contributions; and

5. Using an assumption that the unfunded actuarial accrued liabilities of the System are amortized over a period of thirty (30) years, in a manner consistent with the Governmental Accounting Standards Board Statement Number 25.

I. Effective July 1, 2000, the State Board is hereby authorized to do all acts and things necessary and proper to carry out the purpose of the System and to make the least costly amendments and changes, if any, as may be necessary to qualify the System under the applicable sections of the Internal Revenue Code of 1986, as amended.

Added by Laws 1988, c. 321, § 5, operative July 1, 1988. Amended by Laws 1992, c. 354, § 1; Laws 1995, c. 81, § 1, eff. July 1, 1995; Laws 2000, c. 327, § 4, eff. July 1, 2000; Laws 2002, c. 391, § 3, eff. July 1, 2002; Laws 2006, 2nd Ex. Sess., c. 46, § 12, eff. July 1, 2006.

Comment [2]: BDERIV

§49-100.10. Duties of fiduciaries.

A. A fiduciary with respect to the Oklahoma Firefighters Pension and Retirement System shall not cause the System to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect:

1. sale or exchange, or leasing of any property from the System to a party in interest for less than adequate consideration or from a party in interest to the System for more than adequate consideration;
 2. lending of money or other extension of credit from the System to a party in interest without the receipt of adequate security and a reasonable rate of interest, or from a party in interest to the System with provision of excessive security or an unreasonably high rate of interest;
 3. furnishing of goods, services or facilities from the System to a party in interest for less than adequate consideration, or from a party in interest to the System for more than adequate consideration;
- or
4. transfer to, or use by or for the benefit of, a party in interest of any assets of the System for less than adequate consideration.

B. A fiduciary with respect to the Oklahoma Firefighters Pension and Retirement System shall not:

1. deal with the assets of the System in the fiduciary's own interest or for the fiduciary's own account;
2. in the fiduciary's individual or any other capacity act in any transaction involving the System on behalf of a party whose interests are adverse to the interests of the System or the interests of its participants or beneficiaries; or
3. receive any consideration for the fiduciary's own personal account from any party dealing with the System in connection with a transaction involving the assets of the System.

C. A fiduciary with respect to the Oklahoma Firefighters Pension and Retirement System may:

1. invest all or part of the assets of the System in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan; or
2. provide any ancillary service by a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan.

D. A person or a financial institution is a fiduciary with respect to the Oklahoma Firefighters Pension and Retirement System to the extent that the person or the financial institution:

1. exercises any discretionary authority or discretionary control respecting management of the Oklahoma Firefighters Pension and Retirement System or exercises any authority or control respecting management or disposition of the assets of the System;
2. renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the System, or has any authority or responsibility to do so; or

3. has any discretionary authority or discretionary responsibility in the administration of the System.

Added by Laws 1988, c. 321, § 6, operative July 1, 1988.

§49-100.11. Deposits of contributions and dedicated revenues - Warrants and vouchers.

A. All employee and employer contributions and dedicated revenues shall be deposited in the Oklahoma Firefighters Pension and Retirement Fund in the State Treasury. The State Board shall have the responsibility for the management of the Oklahoma Firefighters Pension and Retirement Fund, and may transfer monies used for investment purposes by the Oklahoma Firefighters Pension and Retirement System from the Oklahoma Firefighters Pension and Retirement Fund in the State Treasury to the custodian bank or trust company of the System.

B. All benefits payable pursuant to the provisions of the Oklahoma Firefighters Pension and Retirement System, refunds of contribution and overpayments, and all administrative expenses in connection with the System shall be paid from the Oklahoma Firefighters Pension and Retirement Fund upon warrants or vouchers signed by two persons designated by the State Board. The State Board may transfer monies from the custodian bank or trust company of the System to the Oklahoma Firefighters Pension and Retirement Fund in the State Treasury for the purposes specified in this subsection.

Added by Laws 1988, c. 321, § 7, operative July 1, 1988.

§49-101. Right to pension - Amount.

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 terminates service after completing ten (10) years of credited service, the volunteer fire fighter shall receive a vested benefit. The volunteer fire fighter 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. 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.

Added by Laws 1977, c. 256, § 49-101, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 8, eff. Jan. 1, 1981; Laws 1981, c. 224, § 1, emerg. eff. June 22, 1981; Laws 1983, c. 143, § 4, emerg. eff. May 26, 1983; Laws 1985, c. 222, § 4, emerg. eff. July 8, 1985; Laws 1986, c. 187, § 1, operative July 1, 1986; Laws 1987, c. 236, § 143, emerg. eff. July 20, 1987; Laws 1993, c. 126, § 2, emerg. eff. May 3, 1993.

§49-101.1. Purchase of credited service.

An eligible employer joining the Oklahoma Firefighters Pension and Retirement System on or after July 1, 2000, may purchase up to five (5) years of credited service for each volunteer member of a volunteer fire department at the annual contribution rate in effect as of the date of the purchase, provided verifiable evidence of active firefighter service for the purchased years for each individual is provided to the System. Even though the participating municipality is exempt from contributions, contributions must be

paid for a volunteer firefighter to receive purchased credited service. Payment for purchased credited service must be received by the System within six (6) months of the date the eligible employer becomes a participating municipality, and may be paid by the individual member. Six (6) months from the date the eligible employer becomes a participating municipality, any eligible prior credited service not purchased shall expire and not be available for determining benefits. Eligibility to receive purchased credited service shall be limited to those members of the new volunteer fire department enrolled at the time the eligible employer applies for affiliation with the System pursuant to Section 49-105.2 of Title 11 of the Oklahoma Statutes.

Added by Laws 2000, c. 327, § 5, eff. July 1, 2000.

§49-101.2. Certain volunteers to be considered paid firefighters - Physical and agility requirements.

Any member serving as an active volunteer firefighter who receives annual compensation from a fire department in a participating municipality for services related to firefighting, other than reimbursement of expenses in excess of two (2) times the annual pension benefit paid by the System to a retired volunteer firefighter with twenty (20) years credited service shall be considered a paid firefighter and must meet the physical and agility requirements pursuant to Section 49-116 of this title to continue as an active member of the System. Credited service earned as a paid firefighter pursuant to this section shall not be considered actual experience as a paid firefighter for purposes of meeting the qualifications of a paid fire chief as provided in Section 29-102 of this title.

Added by Laws 2000, c. 327, § 6, eff. July 1, 2000. Amended by Laws 2003, c. 460, § 7, eff. July 1, 2003. Amended by Laws 2004, c. 546, § 1, eff. July 1, 2004.

§49-102. Consolidation or annexation - Pension rights.

Whenever two or more adjacent municipalities participating in the System shall be made one, either by consolidation or annexation, those funds and those persons receiving benefits under the System shall be transferred to the new or surviving participating municipality and those persons receiving said benefits shall continue to retain all the rights and privileges granted therein; provided further that those active volunteer firefighters of participating municipalities shall be transferred and continued as volunteer firefighters and retain all the rights and privileges granted in this article.

Added by Laws 1977, c. 256, § 49-102, eff. July 1, 1978; Laws 1980, c. 352, § 9, eff. Jan. 1, 1981.

§49-103. Local firefighter pension and retirement boards.

A. The mayor, the clerk and the treasurer of every incorporated municipality are, in addition to the duties now required of them, hereby created and constituted, together with three members from the fire department of such municipality, a local firefighters pension and retirement board of each such municipality, which board shall be known as the Local Firefighters Pension and Retirement Board. The fire department of each such municipality shall elect, by ballot, three members of such fire department, one of whom shall serve for the term of one (1) year, and one for the term of two (2) years, and one for the term of three (3) years, and thereafter such fire department shall, every year, elect by ballot one of its members to serve for the term of three (3) years upon the local board; provided, the provisions of this article shall not apply to any municipality where no regularly organized fire department is maintained, nor to any municipality where the fire department has firefighting apparatus of less than One Thousand Dollars (\$1,000.00) value.

B. Local firefighter pension and retirement boards of participating employers of the System shall be terminated on December 31, 2000, and all powers, duties and functions shall be assumed by the Executive Director unless a majority of the active firefighters of an affected fire department elect to continue their local firefighter pension and retirement board before the termination date prescribed by this subsection, provided that an election shall be held within twenty (20) days of the date a petition is

presented to the fire chief of a fire department signed by at least ten percent (10%) of the active firefighters on the rolls as of the petition date requesting an election to continue the local firefighter pension and retirement board.

Added by Laws 1977, c. 256, § 49-103, eff. July 1, 1980. Amended by Laws 1980, c. 352, § 10, eff. Jan. 1, 1981; Laws 2000, c. 327, § 7, eff. July 1, 2000.

§49-104. Organization of board - Officers - Rules and other offices.

The mayor shall be an ex officio member and chairman of the local board, the municipal clerk shall be ex officio secretary, and the municipal treasurer shall be ex officio treasurer of the local board. The mayor shall have a casting vote with the members only when necessary to avoid a tie vote among them. The members shall elect a vice chairman from among them and promulgate such other rules and offices as may be necessary to insure the orderly conduct of business.

Added by Laws 1977, c. 256, § 49-104, eff. July 1, 1978; Laws 1980, c. 352, § 11, eff. Jan. 1, 1981.

§49-105. Meetings of local board - Record of proceedings - Quorum.

The local board shall hold meetings upon the call of its chairman at such times as the chairman deems necessary. The local board shall keep a record of its proceedings, which record shall be public record. A majority of all the regular voting members of the local board shall constitute a quorum and have power to transact business.

Added by Laws 1977, c. 256, § 49-105, eff. July 1, 1980; Laws 1980, c. 352, § 12, eff. Jan. 1, 1981.

§49-105.1. Responsibility of local board to review certain applications.

It shall be the responsibility of the local board to review applications for retirement benefits and disability benefits. Each local board shall recommend approval, disapproval or modification of each application and the secretary shall forward such recommendations to the State Board within ten (10) days following the local board's decision. Consideration by the local board shall be pursuant to this article and the rules and regulations of the State Board. The State Board shall furnish all required forms.

Added by Laws 1980, c. 352, § 13, eff. Jan. 1, 1981; Amended by Laws 1985, c. 222, § 5, emerg. eff. July 8, 1985.

§49-105.2. Joining system - Application for affiliation - Consolidation of systems.

A. An eligible employer may join the System on the first day of any month. Application for affiliation shall be in the form of a resolution approved by the governing body of the eligible employer or by any other body or officer authorized by law or recognized by the State Board to approve such resolution or action. Upon the filing of a certified copy of such resolution with the State Board, such election shall be irrevocable and the eligible employer shall become a participating municipality on the first day of the month immediately following the filing of such election with the State Board.

B. Any municipality that has a municipal firefighters pension and retirement system prior to January 1, 1981, shall consolidate its system with the state System and become a participating municipality on the first entry date as provided in this article.

Added by Laws 1980, c. 352, § 14, eff. Jan. 1, 1981; Amended by Laws 1987, c. 236, § 144, emerg. eff. July 20, 1987.

§49-105.3. Municipalities contracting with private entities to provide fire protection.

Any participating municipality that contracts with private organizations, corporations or companies to provide fire protection in this state shall meet the requirements of the Oklahoma Firefighters Pension and Retirement System and the fire fighters of the participating municipality shall be members of the system.

Added by Laws 1988, c. 267, § 3, operative July 1, 1988.

§49-106. Retirement benefits – Waiver of benefits - Direct payment to insurer.

A. Any firefighter who reaches the firefighter’s normal retirement date shall be entitled, upon written request, to retire from such service and be paid from the System a monthly pension equal to the member’s accrued retirement benefit; provided, that the pension shall cease during any period of time the member may thereafter serve for compensation in any municipal fire department in the state. If such a member is reemployed by a participating municipality in a position which is not covered by the System, retirement shall also include receipt by such member of in-service distributions from the System.

B. With respect to distributions under the System made for calendar years beginning on or after January 1, 2005, the System shall apply the minimum distribution incidental benefit requirements, incidental benefit requirements, and minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, in accordance with the final regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, which were issued in April 2002 and June 2004, notwithstanding any provision of the System to the contrary. With respect to distributions under the System made for calendar years beginning on or after January 1, 2001 through December 31, 2004, the System shall apply the minimum distribution requirements and incidental benefit requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, in accordance with the regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, which were proposed in January 2001, notwithstanding any provision of the System to the contrary. Effective July 1, 1989, notwithstanding any other provision contained herein to the contrary, in no event shall commencement of distribution of the accrued retirement benefit of a member be delayed beyond 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.

C. Any member or beneficiary eligible to receive a monthly benefit from the System may make an election to waive all or a portion of monthly benefits.

D. If the requirements of Section 4 of this act are satisfied, a member who, by reason of attainment of normal retirement date or age, is separated from service as a public safety officer with the member’s participating municipality, may elect to have payment made directly to the provider for qualified health insurance premiums by deduction from his or her monthly pension payment, after December 31, 2006, in accordance with Section 402(1) of the Internal Revenue Code of 1986, as amended.

Added by Laws 1977, c. 256, § 49-106, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 15, eff. Jan. 1, 1981; Laws 1981, c. 99, § 1, emerg. eff. April 22, 1981; Laws 1989, c. 249, § 41, eff. Jan. 1, 1989; Laws 1999, c. 193, § 2, eff. July 1, 1999; Laws 2002, c. 398, § 3, eff. July 1, 2002; Laws 2003, c. 128, § 2, eff. July 1, 2003. Amended by Laws 2004, c. 546, § 2, eff. July 1, 2004; Laws 2005, c. 203, § 1, emerg. eff. May 20, 2005; Laws 2007, c. 345, § 1, eff. July 1, 2007.

§49-106.1. Oklahoma Firefighters Deferred Option Plan.

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 who has not less than twenty (20) 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.

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.

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:

I. 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 retirement pension dies on or after the effective date of this act, 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. The surviving spouse must make any such election within one (1) year from the date of the member’s death. If such election is made, the monthly pension such surviving spouse is receiving, or 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 deferred benefit

balance such surviving spouse is entitled to receive shall be reduced by the back drop pension adjustment amount and increased by the deferred benefit balance adjustment amount. The surviving spouse 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 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 and is eligible for a retirement for disability monthly pension pursuant to Section 49-109 of this title on or after the effective date of this act, 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 and filed a grievance for wrongful termination occurring on or after the effective date of this act, 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.

Added by Laws 1989, c. 109, § 1. Amended by Laws 1990, c. 334, § 1, operative July 1, 1990; Laws 1993, c. 353, § 1, emerg. eff. June 10, 1993; Laws 1997, c. 247, § 1, eff. July 1, 1997; Laws 2003, c. 80, § 1, eff. July 1, 2003; Laws 2003, c. 334, § 2, emerg. eff. May 29, 2003; Laws 2004, c. 546, § 3, eff. July 1, 2004; Laws 2007, c. 356, § 2, emerg. eff. June 4, 2007; Laws 2008, c. 177, § 1, eff. July 1, 2008.

NOTE: Laws 2003, c. 128, § 3 repealed by Laws 2003, c. 334, § 5, emerg. eff. May 29, 2003.

Comment [3]: BDERIV

§49-106.2. Limitations on benefits relating to Section 415 of Internal Revenue Code of 1986.

A. 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 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 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 a 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 401(a)(11) of the Internal Revenue Code of 1986, as amended.
- c. Limitation Year 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 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 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 in Plan Years Beginning After 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning after 2005, the actuarially equivalent straight life annuity is equal to the greatest of:
 - (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, 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 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, divided by one and five one-hundredths (1.05).
- b. 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.
 - (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 b 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

- (2) a five percent (5%) interest rate assumption and the applicable mortality table as described in Revenue Ruling 2001-62.
- 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.** 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 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 (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 limitation 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.
- 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. 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 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 (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 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)) 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 a member purchases service under Sections 49-117.2 and 49-117.3 of this title, 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 a member repays to the System any amounts received because of the member's prior termination pursuant to Section 49-117.1 of this title, 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 Internal Revenue Code Section 415(b)(10).

Added by Laws 1991, c. 323, § 2, emerg. eff. June 12, 1991. Amended by Laws 1999, c. 193, § 3, eff. July 1, 1999; Laws 2000, c. 327, § 8, eff. July 1, 2000; Laws 2003, c. 128, § 4, eff. July 1, 2003; Laws 2008, c. 177, § 2, eff. July 1, 2008.

Comment [4]: BDERIV

§49-106.3. Payment of distribution to retirement plan.

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

- (a) from January 1, 2002, through December 31, 2006, to:
 - (1) an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or
 - (2) a qualified trust which is a part of a defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code of 1986, as amended, and which agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable, and
- (b) on or after January 1, 2007, to:
 - (1) an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or
 - (2) a qualified trust described in Section 401(a) or 403(a) of the Internal Revenue Code of 1986, as amended, or an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, and such trust or annuity contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable;

2. "Eligible Retirement Plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1986, as amended, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986, as amended, an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986, as amended, or a qualified trust described in Section

401(a) of the Internal Revenue Code of 1986, as amended, that accepts the Distributee's Eligible Rollover Distribution. Effective January 1, 2002, an Eligible Retirement Plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, and an eligible plan under Section 457(b) of the Internal Revenue Code of 1986, as amended, which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the System. Effective January 1, 2002, the definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee pursuant to a qualified domestic order as defined in subsection B of Section 49-126 of this title. An Eligible Retirement Plan does not include a Roth IRA under Section 408A of the Internal Revenue Code of 1986, as amended;

3. "Distributee" means a member whether or not said member is an active firefighter. In addition, effective June 7, 1993, the member's surviving spouse and the member's spouse or former spouse who is an alternate payee under a qualified domestic order, as provided in subsection B of Section 49-126 of this title, are Distributees with regard to the interest of the spouse or former spouse; and

4. "Direct Rollover" means a payment by the System to the Eligible Retirement Plan specified by the Distributee.

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

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

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

Added by Laws 1999, c. 193, § 4, eff. July 1, 1999. Amended by Laws 2000, c. 327, § 9, eff. July 1, 2000; Laws 2003, c. 128, § 5, eff. July 1, 2003; Laws 2007, c. 345, § 2, eff. July 1, 2007.

§49-106.4. Trustee-to-trustee transfer - Rules.

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

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

2. The transferee IRA is treated as an inherited individual retirement account or an inherited individual retirement annuity (within the meaning of Section 408(d)(3)(C) of the Internal Revenue Code of 1986, as amended); and

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

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

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

Added by Laws 2007, c. 345, § 3, eff. July 1, 2007.

Comment [5]: BDERIV

§49-106.5. Written election for direct payments - Definitions - Rules.

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 premiums for coverage for the eligible retired public safety officer, the eligible retired public safety officer's spouse, and dependents by an accident or health insurance plan or a qualified long-term care insurance contract. 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.

Added by Laws 2007, c. 345, § 4, eff. July 1, 2007.

Comment [6]: BDERIV

§49-108. Volunteer fire fighters with less than 10 years' service - Pension rights.

A. Any volunteer fire fighter who is appointed as a paid fire fighter 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 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.

B. Any volunteer fire fighter who is appointed as a paid fire fighter after the effective date of this act 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 for each additional volunteer year. Any volunteer fire fighter who is appointed as a paid fire fighter before the effective date of this act 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.

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.

Added by Laws 1977, c. 256, § 49-108, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 16, eff. Jan. 1, 1981; Laws 1992, c. 203, § 1, emerg. eff. May 15, 1992; Laws 2000, c. 327, § 10, eff. July 1, 2000.

§49-109. Retirement for disability - Restoration to service - Disability not in line of duty.

A. Whenever any firefighter serving in any capacity in a regularly constituted fire department of a municipality shall become so physically or mentally disabled while in, or in consequence of, the performance of the firefighter's duty as to prevent the effective performance of the firefighter's duties, the State Board may, upon the firefighter's written request, or without such request if the State Board deems it for the good of the department, retire the firefighter from active service, and if so retired, shall direct that the firefighter be paid from the System a monthly pension equal to the greater of:

1. Fifty percent (50%) of the average monthly salary which was paid to the firefighter during the last thirty (30) months of the firefighter's service; or

2. 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, provided such firefighter has completed twenty (20) or more years of credited service.

B. If the disability ceases within two (2) years from the date of the firefighter's disability retirement and before the firefighter's normal retirement date, the formerly disabled person shall be restored to active service at the salary attached to the rank the firefighter held at the time of the firefighter's disability retirement provided the firefighter is capable of performing the duties of a firefighter. Whenever such disability shall cease, such disability pension provided pursuant to paragraph 1 of subsection A of this section shall cease. If a firefighter participates in the Oklahoma Firefighters Deferred Option Plan pursuant to Section 49-106.1 of this title, the firefighter's disability pension provided pursuant to this subsection shall be reduced to account for the firefighter's participation in the Oklahoma Firefighters Deferred Option Plan.

C. Whenever any firefighter, who has served in any capacity in a regularly constituted fire department of a municipality of the state, and who has served less than the firefighter's normal retirement date, shall become so physically or mentally disabled from causes not arising in the line of duty as to prevent the effective performance of the firefighter's duties, the firefighter shall be entitled to a pension during the continuance of said disability based upon the firefighter's service period which shall be fifty percent (50%) of the average monthly salary which was paid to the firefighter during the last sixty (60) months of the firefighter's service.

D. No firefighter shall accrue additional service time while receiving a disability pension; provided further, that nothing herein contained shall affect the eligibility of any firefighter to apply for and receive a retirement pension after the firefighter's normal retirement date; provided further, that no firefighter shall receive retirement benefits from the System during the time the firefighter is receiving disability benefits from the System. Any member or beneficiary eligible to receive a monthly benefit pursuant to this section may make an election to waive all or a portion of monthly benefits.

E. If the requirements of Section 4 of this act are satisfied, a member who, by reason of disability, is separated from service as a public safety officer with the member's participating municipality, may elect to have payment made directly to the provider for qualified health insurance premiums by deduction from his or her monthly disability benefit, after December 31, 2006, in accordance with Section 402(1) of the Internal Revenue Code of 1986, as amended.

Added by Laws 1977, c. 256, § 49-109, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 17, eff. Jan. 1, 1981; Laws 1985, c. 222, § 6, emerg. eff. July 8, 1985; Laws 2004, c. 546, § 4, eff. July 1, 2004; Laws 2006, 2nd Ex.Sess., c. 46, § 13, eff. July 1, 2006; Laws 2007, c. 345, § 5, eff. July 1, 2007.

Comment [7]: BDERIV

§49-110. Certificates of disability - Presumptions – Medical evidence and records.

A. No firefighter shall be retired, as provided in Section 49-109 of this title, or receive any pension from the System, unless there shall be filed with the State Board certificates of the firefighter's disability. Any member of the fire department of any municipality who is disabled as a result of heart disease, injury to the respiratory system, infectious disease, or the existence of any cancer which heart disease, injury to the respiratory system, infectious disease, or cancer was not revealed by the physical examination passed by the member upon entry into the department, shall be presumed to have incurred the heart disease, injury to the respiratory system, infectious disease, or cancer while performing the firefighter's duties as a member of such department unless the contrary is shown by competent evidence. As used in this section, "infectious disease" means hepatitis, human immunodeficiency virus, meningitis and tuberculosis. Effective November 10, 1999, the provisions of this subsection relating to infectious disease shall apply.

B. Medical treatment based on the presumptions prescribed by subsection A of this section shall be provided by the municipality as a job-related illness until a court of competent jurisdiction determines that the presumption does not apply. If it is subsequently determined that the illness is not job-related, the workers' compensation provider shall be reimbursed for expenditures made for health care services by the medical plan or benefit provided by the municipality for the employee.

C. If any such member fails to submit evidence of a physical examination prior to entry into the fire department, there shall be no presumption the heart disease, injury to the respiratory system, infectious disease, or cancer was incurred while performing the firefighter's official duties and it shall be the duty of the State Board to determine if the heart disease, injury to the respiratory system, infectious disease, or cancer was incurred while performing the member's official duties.

D. Whenever a participating municipality on behalf of a member or a member applies for a disability benefit, the application shall be accompanied by proof of injury unless otherwise provided and medical evidence supporting the existence of a disability, certified by the member's or municipality's physician, that the member is unable to perform the duties of a firefighter. Should the application be made by a municipality, the member may submit medical evidence or reports from the member's physician to the local board. If both the municipality's physician and the member's physician certify to the disability, the local board shall act upon the application.

E. In regards to applications made by either an individual member or a municipality, should the physicians disagree, or if there is only one physician statement, the local board shall be required to have all the medical records concerning the applicant's disability reviewed by a physician selected by the local board and, if required by the reviewing physician, the local board shall have the member examined. The local board shall act upon all the physician's statements. Local board physician examinations and certifications shall be paid by the State Board and shall be limited to only those conditions upon which the member or the municipality on behalf of the member is requesting a disability.

F. If the State Board deems appropriate, an independent physician may be selected by the State Board to review medical records and examine the member. The physicians selected by the State Board shall submit a report and recommendation to the State Board. The local board may request assistance from the State Board in selecting a physician. Final determination on all disability applications shall rest solely with the State Board.

Added by Laws 1977, c. 256, § 49-110, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 18, eff. Jan. 1, 1981; Laws 1982, c. 320, § 2, operative July 1, 1982; Laws 1987, c. 236, § 145, emerg. eff. July 20, 1987; Laws 1993, c. 353, § 2, emerg. eff. June 10, 1993; Laws 1998, c. 296, § 1, eff. July 1, 1998; Laws 2001, c. 359, § 1, eff. July 1, 2001; Laws 2002, c. 398, § 4, eff. July 1, 2002.

§49-111. Temporary sickness or disability.

A. Whenever any member of the fire department of any municipality, on account of sickness or temporary disability, other than a burn injury, caused or sustained while in the discharge of the member's duty as such member, is unable to perform the member's duties, notwithstanding the provisions of Sections 11 and 12 of Title 85 of the Oklahoma Statutes, the salary shall be paid by the municipality to the member and shall continue while the member is sick or temporarily disabled for a period of not more than six (6) months with the municipality having the option of extending the period for up to an additional six (6) months, not to exceed a total of twelve (12) months, after which period the provisions for disability benefits under the Oklahoma Firefighters Pension and Retirement System shall apply.

B. Whenever any member of the fire department of any municipality, on account of a burn injury, caused or sustained while in the discharge of the member's duty as such member, is unable to perform the member's duties, notwithstanding the provisions of Sections 11 and 12 of Title 85 of the Oklahoma Statutes, the salary shall be paid by the municipality to the member and shall continue while the member is sick or temporarily disabled for a period of not more than twelve (12) months with the municipality having the option of extending the period for up to an additional six (6) months, not to exceed a total of eighteen (18) months, after which said period the provisions for disability benefits under the Oklahoma Firefighters Pension and Retirement System shall apply.

C. Should a member receiving a salary under this section be eligible to receive, and should the salary of the member under this section exceed any temporary disability benefit paid to the member under Section 1 et seq. of Title 85 of the Oklahoma Statutes, the member shall transfer such temporary disability benefits under Section 1 et seq. of Title 85 of the Oklahoma Statutes to the municipality while the member is sick or temporarily disabled.

Added by Laws 1977, c. 256, § 49-111, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 19, eff. Jan. 1, 1981; Laws 1993, c. 80, § 1, eff. July 1, 1993; Laws 1997, c. 182, § 1, eff. July 1, 1997.

§49-112. Pensions for loss of life.

A. Whenever any member of the fire department shall lose his or her life by reason of any injury or sickness sustained by him or her while in, or in consequence of, the performance of his or her duty or while on active duty in the National Guard and Reserves called to active duty, leaving a surviving spouse, or child or children under the age of eighteen (18) years, then, upon satisfactory proof of such facts made to it, the State Board shall order and direct that a monthly pension be paid. Such amount shall be determined in accordance with the provisions of subsection A of Section 49-109 of this title. In the event of the death of the surviving spouse, the pension shall cease, and should there then be but one living child such child shall receive an amount equal to one hundred percent (100%) of the pension, but if there then be more than one living child, one hundred percent (100%) of the pension shall be divided equally between the children until each child reaches the age of eighteen (18) years or until the age of twenty-two (22) years if the child is enrolled full-time and regularly attending a public or private school or any institution of higher education. In the event the State Board finds that such a child who is not married at the time of death of the member or the member's surviving spouse and who at the time the child attains or attained the age of eighteen (18) years is either physically or mentally disabled, the pension shall continue so long as such disability remains. Upon the death of the firefighter and surviving spouse, if any, the physically or mentally disabled child shall be entitled to have paid to the child's trustee of a trust, whether inter vivos or testamentary, which trust provides for the receipt of the pension benefits to be held and administered for the sole benefit of the physically or mentally disabled child, or if there is no trust, to the child's legally appointed guardian, an amount not to exceed one hundred percent (100%) of the pension. The money paid to the guardian or trustee shall be used solely for the benefit of the disabled child and it shall be reported annually to the State Board. The payment

provided shall be calculated after payments have been made to all eligible children as provided in this subsection. If the member does not leave a beneficiary or disabled child as described in this subsection, the accumulated contributions made to the System by the member shall be paid to the estate of the member.

B. Whenever any member of the fire department who has not terminated employment shall lose his or her life for any reason not described in subsection A of this section, after completing less than twenty (20) years of credited service, leaving a surviving spouse, or child or children under the age of eighteen (18) years, then upon satisfactory proof of such facts made to it, the State Board shall order and direct that a monthly pension be paid. Such amount shall be fifty percent (50%) of the average monthly salary which was paid to the firefighter during the last sixty (60) months of the firefighter's service. In the event of the death of the surviving spouse, the pension shall cease, and should there then be but one living child such child shall receive an amount equal to one hundred percent (100%) of the pension, but if there then be more than one living child, one hundred percent (100%) of the pension shall be divided equally between the children until each child reaches the age of eighteen (18) years or the age of twenty-two (22) years if the child is enrolled full-time and regularly attending a public or private school or any institution of higher education. In the event the State Board finds that such a child who is not married at the time of death of the member or the member's surviving spouse and who at the time the child attains or attained the age of eighteen (18) years is either physically or mentally disabled, the pension shall continue so long as the disability remains. Upon the death of the firefighter and surviving spouse, if any, said physically or mentally disabled child shall be entitled to have paid to the child's trustee of a trust, whether inter vivos or testamentary, which trust provides for the receipt of the pension benefits to be held and administered for the sole benefit of said physically or mentally disabled child, or if there is no trust, to the child's legally appointed guardian, an amount not to exceed one hundred percent (100%) of the pension. The money paid to the guardian or trustee shall be used solely for the benefit of the disabled child and it shall be reported annually to the State Board. The payment provided shall be calculated after payments have been made to all eligible children as provided in this subsection. If the member does not leave a beneficiary or disabled child as described in this subsection, the accumulated contributions made to the System by the member shall be paid to the estate of the member.

C. For purposes of this section, a child shall not be considered disabled if the child is able to pursue a remunerative occupation, with the remuneration being reasonably substantial rather than merely nominal.

Laws 1977, c. 256, § 49-112, eff. July 1, 1978; Laws 1980, c. 352, § 20, eff. Jan. 1, 1981. Amended by Laws 1990, c. 143, § 2, emerg. eff. May 1, 1990; Laws 1991, c. 125, § 1, emerg. eff. April 29, 1991; Laws 2007, c. 356, § 3, emerg. eff. June 4, 2007.

Comment [8]: BDERIV

§11-49-113. Death of firefighter for any cause - Payment of benefits to beneficiaries.

A. 1. In the event of the death of a firefighter who at the time of the firefighter's death was drawing a pension, other than a disability pension, or who at the time of the firefighter's death (whether death occurred while on duty, but not in or in consequence of the performance of duty, or while on vacation or off duty) was eligible, upon written request, to retire and draw a pension, other than a disability pension, the beneficiary of such person shall be paid an amount not to exceed one hundred percent (100%) of said pension.

2. In the event of the death of a firefighter who at the time of the firefighter's death was drawing, or eligible to draw, a disability pension for a physical or mental disability that occurred while in, or in consequence of, the performance of the firefighter's duty, and which prevented the effective performance of the firefighter's duties, and which caused the State Board to retire the firefighter from active service, the beneficiary of such person shall be paid an amount not to exceed one hundred percent (100%) of the pension paid in accordance with subsection A of Section 49-109 of this title.

3. In the event of the death of a firefighter who at the time of the firefighter's death was drawing, or eligible to draw, a disability pension for a physical or mental disability from causes not arising in the line of duty and which prevented the effective performance of the firefighter's duties, the beneficiary of such person shall be paid an amount not to exceed one hundred percent (100%) of the pension paid in accordance with subsection C of Section 49-109 of this title.

4. Effective March 1, 1997, if a firefighter to whom a retirement or disability benefit has been awarded, or who is eligible therefore, dies prior to the date as of which the total amount of retirement or disability benefit paid equals the total amount of the employee contributions paid by or on behalf of the member and the member does not have a surviving beneficiary, the total benefits paid as of the date of the member's death shall be subtracted from the accumulated employee contribution amount and the balance, if greater than Zero Dollars (\$0.00), shall be paid to the member's estate.

5. Any person eligible to receive a payment pursuant to this section may make an election to waive all or a portion of monthly payments.

B. In the event of the death of the surviving spouse, the pension shall cease, and should there then be but one living child same shall receive an amount equal to one hundred percent (100%) of said pension, but if there then be more than one living child, one hundred percent (100%) of said pension shall be divided equally between the children until each child reaches the age of eighteen (18) years or until the age of twenty-two (22) years if the child is enrolled full time and regularly attending a public or private school or any institution of higher education. Provided, that in the event the State Board finds that such a child who is not married at the time of death of the member or the member's surviving spouse and who at the time the child attains or attained the age of eighteen (18) years is either physically or mentally disabled, the pension thereof shall continue so long as such disability remains; provided, that upon the death of the firefighter and surviving spouse, if any, said physically or mentally disabled child shall be entitled to have paid to the child's trustee of a trust, whether inter vivos or testamentary, which trust provides for the receipt of the pension benefits to be held and administered for the sole benefit of said physically or mentally disabled child, or if there is no trust, to the child's legally appointed guardian, an amount not to exceed one hundred percent (100%) of said pension. The money so paid to the guardian or trustee shall be used solely for the benefit of the disabled child and it shall be reported annually to the State Board. A child shall not be considered disabled if the child is able to pursue a remunerative occupation, with the remuneration being reasonably substantial rather than merely nominal. The payment so provided shall be calculated after payments have been made to all eligible children as provided in this section; provided further, that beneficiaries now receiving pensions under the provisions of Sections 49-112 or 49-113 of this title shall, upon application to the State Board, thereafter be entitled to a pension equal to the amount which they would have received if this act were in effect at the time the right to said pension accrued.

C. In the event a surviving spouse of a member remarried prior to June 7, 1993, the surviving spouse shall be eligible to receive the pension benefits provided for in this section. To receive the pension benefits provided for in this section the surviving spouse falling within this section shall submit a written request for such benefits to the Oklahoma Firefighters Pension and Retirement System. The Oklahoma Firefighters Pension and Retirement System shall approve requests by surviving spouses meeting the requirements of this section. Upon approval by the Oklahoma Firefighters Pension and Retirement System, the surviving spouse shall be entitled to the pension benefits provided for in this section beginning from the date of approval forward. Pension benefits provided to surviving spouses falling within this section shall not apply to alter any amount of pension benefits paid or due prior to the Oklahoma Firefighters Pension and Retirement System's approval of the remarried surviving spouse's written request for benefits.

D. No surviving spouse shall receive benefits from this section, Section 50-117 of this title, or Section 2-306 of Title 47 of the Oklahoma Statutes as the surviving spouse of more than one member of

the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, or the Oklahoma Law Enforcement Retirement System. The surviving spouse of more than one member shall elect which member's benefits he or she will receive.

E. Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the beneficiary of the member or to the member's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

F. Upon the death of an unmarried firefighter, or a firefighter whose spouse does not meet the qualifications of beneficiary who has one or more children, said child or children shall receive pension benefits as provided in subsection B of this section as if the surviving spouse had died; provided, that upon the death of the firefighter, said child or children shall be entitled to have the System pay to the child's or children's trustee of a trust, whether inter vivos or testamentary, which trust provides for the receipt of the pension benefits to be held and administered for the sole benefit of said child, or if there is no trust, to the child's or children's legally appointed guardian, the pension benefits as provided in subsection B of this section in an amount not to exceed one hundred percent (100%) of said pension. The money so paid to the guardian or trustee shall be used solely for the benefit of the child and it shall be reported annually to the State Board.

Added by Laws 1977, c. 256, § 49-113, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 21, eff. Jan. 1, 1981; Laws 1985, c. 222, § 7, emerg. eff. July 8, 1985; Laws 1991, c. 125, § 2, emerg. eff. April 29, 1991; Laws 1993, c. 126, § 3, emerg. eff. May 3, 1993; Laws 1993, c. 322, § 1, emerg. eff. June 7, 1993; Laws 1994, c. 84, § 2, eff. July 1, 1994; Laws 1994, c. 351, § 1, eff. July 1, 1994; Laws 1997, c. 363, § 1, emerg. eff. June 11, 1997; Laws 1998, c. 419, § 1, eff. July 1, 1998; Laws 2001, c. 49, § 1, emerg. eff. April 10, 2001; Laws 2002, c. 330, § 1, eff. July 1, 2002; Laws 2003, c. 334, § 3, emerg. eff. May 29, 2003; Laws 2004, c. 546, § 5, eff. July 1, 2004; Laws 2005, c. 203, § 2, emerg. eff. May 20, 2005; Laws 2006, 2nd Ex.Sess., c. 46, § 14, eff. July 1, 2006; Laws 2007, c. 356, § 4, emerg. eff. June 4, 2007.

Comment [9]: BDERIV

§49-113.2. Death benefit.

A. Upon the death of an active or retired member, the System shall pay to the surviving spouse of the member if the surviving spouse has been married to the firefighter for thirty (30) continuous months preceding the member'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, or if there is no surviving spouse or no surviving spouse meeting the requirements of this section, 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 estate of the member, the sum of Four Thousand Dollars (\$4,000.00) for those active or retired members who died prior to July 1, 1999. For those active or retired members who die on or after July 1, 1999, the sum shall be Five Thousand Dollars (\$5,000.00). The benefit payable pursuant to this subsection shall be deemed, for purposes of federal income taxation, as life insurance proceeds and not as a death benefit if the Internal Revenue Service approves this provision pursuant to a private letter ruling request which shall be submitted by the board of trustees of the System for that purpose.

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

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

1. The member's last will and testament if available;
2. An affidavit or affidavits of heirship which must contain:

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

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

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

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

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

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

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

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

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

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

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

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

a. such refusal is in writing,

b. such writing is received by the System not later than the date which is nine (9) months after the date of death of the deceased member,

c. such person has not accepted the death benefit provided for in subsection A of this section, and

d. as a result of such refusal, the death benefit provided for in subsection A of this section passes without any direction on the part of the person making the disclaimer and passes first, to the organization providing funeral and burial services for the deceased member or, if the cost of the funeral and burial services for the deceased member has already been paid, to the person or persons other than the person making the disclaimer as further provided for in this section.

Added by Laws 1987, c. 236, § 146, emerg. eff. July 20, 1987. Amended by Laws 1994, c. 300, § 2, eff. July 1, 1994; Laws 1994, c. 351, § 2, eff. July 1, 1994; Laws 1996, c. 291, § 1, eff. July 1, 1996; Laws 1999, c. 167, § 1, eff. July 1, 1999; Laws 2001, c. 49, § 2, emerg. eff. April 10, 2001; Laws 2002, c. 352, § 1, eff. July 1, 2002.

§49-114. Members entitled to benefits for disability or loss of life.

Any member serving in any capacity in a regularly constituted fire department of a municipality of this state who shall become physically or mentally disabled as provided in Section 49-109 of this title, or shall lose his life as provided in Section 49-112 of this title, where said disability or loss of life was occasioned in fighting or preventing fires or in carrying out any order or direction of the chief or acting chief of said department shall be entitled to all of the benefits authorized by said sections.

Added by Laws 1977, c. 256, § 49-114, eff. July 1, 1978; Laws 1980, c. 352, § 23, eff. Jan. 1, 1981; Laws 1992, c. 390, § 2, emerg. eff. June 9, 1992.

§49-116. Physical examination required – Disabled persons.

A. All candidates being considered for a position of a paid firefighter shall pass the required pre-employment offer physical performance/agility test based on standards established by the State Board; provided that the time between the administration of the physical performance/agility test approval for membership in the System by the Executive Director and the candidate's actual hire date by the participating municipality is less than twelve (12) months, provided further that a volunteer firefighter who passes an agility test at the time he or she is enrolled as a firefighter in a combination paid and volunteer fire department shall not be required to take a second agility test at the time of appointment as a paid firefighter in the same fire department. After review of a candidate's physical performance/agility test presented to the System by a participating municipality or its fire department, the Executive Director may require that a second physical performance/agility test be administered to said candidate by and under the supervision of the Executive Director. Successful completion of the second physical performance/agility test shall be required before said candidate's application for membership in the System can be approved.

B. The State Board shall require that any candidate applying for entrance as a member of the System, who has been offered a position of a paid firefighter and before entering the employment of a participating municipality as a paid firefighter, must successfully complete a physical examination, as promulgated by the administrative rules established by the State Board, in order to participate and qualify to receive any benefits from the System; provided that when the System receives all the information necessary for entrance into the System, including written notice from the System's physician that the candidate has met the minimum medical requirements for entrance, the Executive Director shall have the authority to approve an entrance date for the candidate no earlier than the date all the necessary information for entrance is received or the actual hire date whichever is later; provided that the time between the administration of the physical examination approval for membership in the System by the Executive Director and the candidate's actual hire date by the participating municipality is less than six (6) months. All candidates shall be of good moral character, free from deformities, mental or physical conditions, disease and alcohol or drug addiction, which would prohibit a candidate from performing duties as a firefighter. The State Board shall have the authority to deny or revoke the membership of a candidate submitting false information in such candidate's membership application and shall have final authority in determining eligibility for membership pursuant to the provisions of this article. This subsection shall not apply to any person who terminates employment with a participating municipality as a paid firefighter and is reemployed by the participating municipality or employed by another participating municipality within six (6) months of such termination, unless such person was terminated for medical reasons.

C. Any person retired for disability under this article may be summoned before the State Board herein provided for, any time hereafter, and shall submit himself thereto for examination as to his fitness

for duty, and shall abide the decision and order of the State Board with reference thereto; and all members of the fire department, who may be retired under the provisions of this article, shall report to some physician designated by the State Board when so retired, as required by the State Board.

Added by Laws 1977, c. 256, § 49-116, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 25, eff. Jan. 1, 1981; Laws 1982, c. 320, § 3, operative July 1, 1982; Laws 1992, c. 390, § 3, emerg. eff. June 9, 1992; Laws 2000, c. 327, § 11, eff. July 1, 2000; Laws 2002, c. 398, § 5, eff. July 1, 2002; Laws 2003, c. 128, § 6, eff. July 1, 2003.

§49-117. Forfeiture of pensions and allowances.

When any person who shall have received any benefits from the System shall fail to report himself for examination for duty as required herein, unless excused by the State Board, or shall disobey the requirements of said State Board under this article, in respect to said examination or duty, then the State Board shall order that such pension or allowance as may have been granted to such person shall immediately cease, and such person shall receive no further pension or allowance or benefit under this article.

Added by Laws 1977, c. 256, § 49-117, eff. July 1, 1978; Laws 1978, c. 280, § 1, eff. July 1, 1978; Laws 1980, c. 352, § 26, eff. Jan. 1, 1981.

§49-117.1. Termination of service before normal retirement date - Refunds - Vested benefits - Retirement annuity - Rejoining System.

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. If a member 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.

If the member who has completed ten (10) or more years of credited service 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. The death benefits provided for in this article shall not apply to any member retiring under the provisions of this section.

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.

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.

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.

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

Added by Laws 1980, c. 352, § 27, eff. Jan. 1, 1981. Amended by Laws 1985, c. 222, § 8, emerg. eff. July 8, 1985; Laws 1987, c. 236, § 147, emerg. eff. July 20, 1987; Laws 1990, c. 340, § 1, eff. July 1, 1990; Laws 1993, c. 126, § 4, emerg. eff. May 3, 1993; Laws 2002, c. 398, § 6, eff. July 1, 2002; Laws 2003, c. 128, § 7, eff. July 1, 2003.

§49-117.2. Transfer of credited service from or to other retirement system.

A. A paid member of the Oklahoma Firefighters Pension and Retirement System may receive up to five (5) years of credited service accumulated by the member while a member of the Oklahoma Police Pension and Retirement System, the Oklahoma Law Enforcement Retirement System, the Teacher's Retirement System of Oklahoma or the Oklahoma Public Employees Retirement System, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. To receive the service credit prior to January 1, 1991, the member shall pay a five percent (5%) contribution and interest of not to exceed five percent (5%), as may be required by the State Board for each year of service transferred pursuant to this section. Effective January 1, 1991, to receive the service credit, the member shall pay the amount determined by the State Board pursuant to Section 3 of this act. The transferred credited service of the member from another state retirement system shall not alter the member's normal retirement date or vesting requirements. The transferred credited service will be added after the member reaches normal retirement date.

B. The Oklahoma Firefighters Pension and Retirement System shall transfer credited service to another state retirement system upon request of former paid members. Upon transfer, the former member shall have forfeited all rights in the Oklahoma Firefighters Pension and Retirement System. Employee and city contributions of the former municipal retirement systems prior to January 1, 1981, are not transferable.

Added by Laws 1987, c. 236, § 147, emerg. eff. July 20, 1987. Amended by Laws 1990, c. 340, § 2, eff. July 1, 1990.

§49-117.3. Transferred credited service - Computation of purchase price.

A. The State Board shall adopt rules for computation of the purchase price for transferred credited service. These rules shall base the purchase price for each year purchased on the actuarial cost of the incremental projected benefits to be purchased. The purchase price shall represent the present value of the incremental projected benefits discounted according to the member's age at the time of purchase. Incremental projected benefits shall be the difference between the projected benefit said member would receive without purchasing the transferred credited service and the projected benefit after purchase of the transferred credited service computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

B. In the event that the member is unable to pay the purchase price provided for in this section by the due date, the State Board shall permit the members to amortize the purchase price over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the State Board permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the State Board for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance. The State Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

C. Members who pay the purchase price by the due date may make payment by:

1. A trustee-to-trustee transfer from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), and/or a Code Section 401(a) qualified plan; or

2. A direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained

by an eligible employer described in Code Section 457(e)(1)(A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA). Roth IRAs and Coverdell Education Savings Accounts shall not be used to purchase transferred credited service.

The State Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

D. Members amortizing the purchase price and making payments by payroll deduction, shall have the option of making a cash lump-sum payment for the balance of the actuarial purchase price with interest due through the date of payment by:

1. A trustee-to-trustee transfer from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), and/or a Code Section 401(a) qualified plan; or

2. A direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA). Roth IRAs and Coverdell Education Savings Accounts shall not be used to purchase transferred credited service.

The State Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

Added by Laws 1990, c. 340, § 3, eff. July 1, 1990. Amended by Laws 1993, c. 322, § 2, emerg. eff. June 7, 1993; Laws 2002, c. 398, § 7, eff. July 1, 2002; Laws 2003, c. 128, § 8, eff. July 1, 2003. Amended by Laws 2004, c. 546, § 6, eff. July 1, 2004; Laws 2005, c. 203, § 3, emerg. eff. May 20, 2005.

§49-118. Additional powers of State Board.

The State Board shall, in addition to other powers herein granted, have power, to wit:

1. To compel witnesses to attend and testify before it upon all matters connected with the operations of this article, and in the same manner as is or may be provided by law for the taking of testimony before notaries public; and its president or any member of said board may administer oaths to such witnesses;

2. To provide for the payment from the Fund of all its necessary expenses and printing;

3. To make all rules and regulations needful for its guidance in conformity with the provisions of this article; and

4. To bring any action for declaratory relief in the district courts in the state to enforce any provisions of this article or any other applicable state statute.

Added by Laws 1977, c. 256, § 49-118, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 28, eff. Jan. 1, 1981; Laws 2006, 2nd Ex. Sess., c. 46, § 15, eff. July 1, 2006.

Comment [10]: BDERIV

§49-119. Tax on insurance premiums for benefit of fund - Appropriations.

There is hereby appropriated and set aside for the use and benefit of the Fund, a percentage on all taxes collected on premiums collected by all insurance companies and other entities which are subject to the premium tax levied pursuant to Section 624 of Title 36 of the Oklahoma Statutes, after all returned premiums and other credits are deducted as provided by Sections 312.1 and 624 through 626 of Title 36 of the Oklahoma Statutes. In addition, the State of Oklahoma shall make such appropriation as is necessary to assure the retirement benefits provided by this article.

Added by Laws 1977, c. 256, § 49-119, eff. July 1, 1978; Amended by Laws 1980, c. 352, § 29, eff. Jan. 1, 1981; Laws 1988, c. 83, § 1, emerg. eff. March 25, 1988.

§49-120. Account of tax paid by insurance companies - Warrants.

The Insurance Commissioner shall keep a separate account of the amount of tax paid by all insurance companies and other entities subject to the premium tax levied pursuant to Section 624 of Title 36 of the Oklahoma Statutes, as provided by Sections 312.1 and 624 through 626 of Title 36 of the Oklahoma Statutes, and in his report to the State Auditor and Inspector and the State Treasurer he shall certify the exact amount. The State Treasurer shall issue a warrant to the State Board, for the benefit of the System, for the amount of which the Fund shall be entitled and shall deliver the warrant to the State Board.

Added by Laws 1977, c. 256, § 49-120, eff. July 1, 1978; Amended by Laws 1978, c. 280, §2, eff. Jan. 1, 1979; Laws 1980, c. 352, § 30, eff. Jan. 1, 1981; Amended by Laws 1985, c. 222, § 9, emerg. eff. July 8, 1985; Laws 1988, c. 83, § 2, emerg. eff. March 25, 1988.

§49-121. Amount of first warrant pursuant to Section 49-120 - Eligibility of receive funds.

The amount of the first warrant drawn by the State Treasurer pursuant to Section 49-120 of this title shall never be less than Five Hundred Dollars (\$500.00). Any municipality having a firefighting apparatus of a value of not less than One Thousand Dollars (\$1,000.00), may qualify and receive the benefits of the funds made available by the provisions of Section 49-120 of this title, by meeting all the other requirements thereof.

Added by Laws 1977, c. 256, § 49-121, eff. July 1, 1978; Amended by Laws 1978, c. 280, § 3, eff. Jan. 1, 1979; Laws 1980, c. 352, § 31, eff. Jan. 1, 1981.

§49-122. Deductions from salaries of fire department members - Picked up contributions - Deposit of funds - City charters superceded.

A. Each municipality having a paid member of a fire department shall deduct monthly from the salary of each member of the fire department of such municipality an amount equal to eight percent (8%) of the actual paid gross salary of each member of the fire department. The deduction shall be considered the minimum deduction. At the option of the municipality, the municipality may pay all or any part of the member's required contribution. The members of a fire department, by a majority vote of its paid members, may vote to increase the amount of the deduction. The treasurer of each municipality shall deduct the authorized deductions from the salary of each paid member of the fire department. The treasurer of the municipality shall deposit within ten (10) days from each ending payroll date in the System the amount deducted from the salary of each member of the fire department. Amounts deducted from the salary of a member and not paid to the System after thirty (30) days from each ending payroll date shall be subject to a monthly late charge of one and one-half percent (1 1/2%) of the unpaid balance to be paid by the municipality to the System.

Each municipality shall pick up under the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986 and pay the contribution which the member is required by law to make to the System for all compensation earned after December 31, 1988. Although the contributions so picked up are designated as member contributions, such contributions shall be treated as contributions being paid by the municipality in lieu of contributions by the member in determining tax treatment under the Internal Revenue Code of 1986 and such picked up contributions shall not be includable in the gross income of the member until such amounts are distributed or made available to the member or the beneficiary of the member. The member, by the terms of this system, shall not have any option to choose to receive the contributions so picked up directly and the picked up contributions must be paid by the municipality to the System.

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

The municipality shall pay the member contributions from the same source of funds used in paying salary to the member, by effecting an equal cash reduction in gross salary of the member, or by an offset

against future salary increases, or by a combination of reduction in gross salary and offset against future salary increases.

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

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

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

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

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

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

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

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

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

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

Provided, the above-mentioned volunteer county or municipal contributions shall be reevaluated by the next scheduled actuarial study and the amounts adjusted so that in a nine-year period of time, the amounts would reflect the actuarial recommendations at that time. Any county or municipality with an income of less than Twenty-five Thousand Dollars (\$25,000.00) to its general fund during a fiscal year shall be exempt from the provisions of this subsection.

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

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

Added by Laws 1977, c. 256, § 49-122, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 32, eff. Jan. 1, 1981; Laws 1984, c. 287, § 2, operative July 1, 1984; Laws 1987, c. 236, § 149, emerg. eff. July 20, 1987; Laws 1988, c. 267, § 4, operative July 1, 1988; Laws 1990, c. 340, § 4, eff. July 1, 1990; Laws 1992, c. 376, § 1, eff. July 1, 1992; Laws 1998, c. 299, § 2, emerg. eff. May 28, 1998.

§49-122.1. Firefighters Pension and Retirement Fund - Establishment - Deposit and investment of contributions.

There is hereby established a fund to be designated as the Oklahoma Firefighters Pension and Retirement Fund. All employee and employer contributions shall be deposited in the Fund and may be invested as provided in this article.

Added by Laws 1980, c. 352, § 33, eff. Jan. 1, 1981.

§49-122.2. Transfer of assets to State Board.

Any municipality having a Firefighters Pension and Retirement Fund prior to January 1, 1981, shall transfer all assets of such fund to the State Board on July 1, 1981. Assets shall be transferred in the form of cash, negotiable securities and such other specific assets as permitted by the State Board.
Added by Laws 1980, c. 352, § 33, eff. Jan. 1, 1981; Amended by Laws 1985, c. 222, § 10, emerg. eff. July 8, 1985.

§49-122.3. Assets of funds - Right to assets - Valuation.

The assets of the Fund shall consist of such assets and the income therefrom, including monthly contributions made to the State Board by each municipality, or property for which any of the same shall be exchanged or into which any of the same shall be converted, together with any other assets held from time to time hereunder by the State Board. All legal right, title and interest in and to the assets of the Fund shall at all times be held in trust and vested exclusively in the State Board or its nominee and no municipality shall be deemed to have severable ownership of any asset of the Fund or any right of partition or possession.

The State Board shall appraise and place valuation upon the assets of the Fund held by it as of the last business day of each month. Any assets not held by the State Board shall be appraised and valued by the Executive Director on said date.

The valuation of all assets of the Fund shall be both at cost and at the fair market value thereof, as determined by reference to the best available source or sources, in the opinion of the Executive Director and the State Board and both the Executive Director and State Board may rely on figures, or statements appearing in any reputable publication purporting to state sales prices, market quotations, values, bid and asking prices or any facts affecting values and upon the opinion of one or more persons familiar with the reasonable market value of any assets to be valued and shall incur no liability for error in any such valuation made in good faith. The reasonable and equitable decision of the Executive Director and State Board regarding the method used in determining values shall be conclusive and binding upon all persons, natural or legal, having interest, direct or indirect, in the Fund's assets.

Added by Laws 1980, c. 352, § 35, eff. Jan. 1, 1981. Amended by Laws 1985, c. 222, § 11, emerg. eff. July 8, 1985; Laws 2000, c. 327, § 12, eff. July 1, 2000.

§49-122.4. Costs and expenses - Supplies and equipment.

A. All costs and expenses for the selection and compensation of investment counselors, institutional custodian service and commissions or other costs resulting from the purchase, sale or other transfer of assets shall be paid from the fund.

B. Three percent (3%) of the funds disbursed to the State Board under the provisions of Section 312.1 of Title 36 of the Oklahoma Statutes shall be retained by the State Board for the purpose of paying all costs and expenses, other than those provided for in subsection A of this section, incurred in the operation, administration and management of the System. At the close of each fiscal year, any surplus shall be transferred to the Oklahoma Firefighters Pension and Retirement Fund.

C. The State Board is authorized to purchase such equipment and supplies as it deems necessary for the efficient operation, administration and management of the System. Payment for such equipment and supplies shall be made from the operating funds of the System.

Added by Laws 1980, c. 352, § 36, eff. Jan. 1, 1981; Laws 1981, c. 3, § 2, emerg. eff. Feb. 19, 1981; Amended by Laws 1982, c. 320, § 4, operative July 1, 1982.

§49-122.5. Operation, administration and management of System - Responsibilities.

The State Board shall be responsible for the operation, administration and management of the System.

In order to carry out the responsibilities imposed by law upon them, the State Board shall appoint such advisors, consultants, agents and employees, each of whom may be such individual, firm or corporation as shall be deemed necessary or advisable and approved by the State Board. Such individuals, firms or corporations may be retained or employed in such manner and upon such terms as

shall seem appropriate and proper to the State Board, either by contract or retainer, by regular full- or part-time employment or by such other arrangements as shall be satisfactory to the State Board and shall be subject to such bonding requirements as shall be established by the State Board.

The Executive Director shall perform the duties and services indicated below and such other duties and services as may, from time to time, be requested or directed by the State Board, and who shall be responsible to the State Board and shall attend all regular meetings of the State Board.

The Executive Director shall be responsible to the State Board for the day-to-day operation of the System, and shall on behalf of the State Board:

1. Be responsible for the transmittal of communications from the State Board to the local board;
2. Receive payroll and employment reports from participating municipalities and maintain current employment, earnings and contribution data on each covered member of each participating municipality;
3. Coordinate the activities of all other advisors, consultants, agents or employees appointed by the State Board;
4. Maintain all necessary records reflecting the operation and administration of the System and submit detailed reports thereof to the State Board at each regular meeting of the State Board and at such other time or times as requested by the State Board;
5. Process all claims for payment of benefits or expenses for approval by the State Board; and
6. File on behalf of the State Board such reports or other information as shall be required by any state or federal law or regulation.

Added by Laws 1980, c. 352, § 37, eff. Jan. 1, 1981; Amended by Laws 1982, c. 227, § 1, emerg. eff. May 4, 1982; Laws 1982, c. 320, § 5, operative July 1, 1982; Laws 1988, c. 321, § 8, operative July 1, 1988.

§49-122.6. Confidentiality of records.

All information, documents and copies thereof contained in a member's retirement file shall be given confidential treatment and shall not be made public by the Oklahoma Firefighters Pension and Retirement System without the prior written consent of the member to which it pertains, but shall be subject to subpoena or court order.

Added by Laws 1993, c. 353, § 3, emerg. eff. June 10, 1993.

§49-123. Moneys to be paid over to State Board.

All moneys provided for the System by this article shall be paid over to and received by the State Board for the use and benefit of the System.

Added by Laws 1977, c. 256, § 49-123, eff. July 1, 1978; Amended by Laws 1980, c. 352, § 38, eff. Jan. 1, 1981.

§49-124. Report by clerk of statistics as to fire department.

On forms supplied by the State Board, it is hereby made the duty of the clerk of each participating municipality or fire protection district in which an organized department is maintained having fire fighting apparatus of the value of One Thousand Dollars (\$1,000.00) or more, to record annually with the State Board the name of such fire department and the number of fire fighters with their names, birthdate, date of appointment and date of expiration of term of service.

Added by Laws 1977, c. 256, § 49-125, eff. July 1, 1978; Amended by Laws 1980, c. 352, § 39, eff. Jan. 1, 1981; Laws 1993, c. 353, § 4, emerg. eff. June 10, 1993.

§49-126. Pensions and allowances exempt from claims - Assignments or transfers void - Exceptions.

A. Except as otherwise provided by this section, no portion of said pension shall, either before or after its order of distribution by the State Board to such disabled members of said fire department, or the surviving spouse, alternate payee as defined in subsection B of this section, or guardian of such minor child or children, to the deceased or retired member of such department, be held, seized, taken, subjected to or detained or levied on by virtue of any attachment, execution, injunction, writ interlocutory or other

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

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

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of this state which relates to the provision of marital property rights to an alternate payee and which creates or recognizes the existence of the right of an alternate payee and assigns to an alternate payee the right to receive a portion of the benefits payable with respect to a member of the System.

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

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

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

6. A qualified domestic order shall clearly specify:

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

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

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

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

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

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

C. The provisions of subsection A of this section shall not apply to a Child Support Enforcement Division order for a support arrearage pursuant to Section 240.23 of Title 56 of the Oklahoma Statutes and current child support payments made pursuant to a valid court order.

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

Added by Laws 1977, c. 256, § 49-126, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 40, eff. Jan. 1, 1981; Laws 1993, c. 322, § 3, emerg. eff. June 7, 1993; Laws 1998, c. 198, § 2, eff. Nov. 1, 1998; Laws 1999, c. 193, § 5, eff. July 1, 1999; Laws 2000, c. 327, § 13, eff. July 1, 2000; Laws 2003, c. 334, § 4, emerg. eff. May 29, 2003; Laws 2004, c. 546, § 7, eff. July 1, 2004; Laws 2007, c. 356, § 5, emerg. eff. June 4, 2007.

Comment [11]: BDERIV

§49-128. Appeals.

Any person possessing the qualifications required and provided for under this article, who deems himself aggrieved by a decision of the State Board on his or her claim for pension, either in rejecting his or her claim or in the amount allowed by the Board, or participating municipality, may appeal from such decision by filing a petition in the Oklahoma County District Court within thirty (30) days from the date of such decision.

Added by Laws 1977, c. 256, § 49-128, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 41, eff. Jan. 1, 1981; Laws 1997, c. 247, § 2, eff. July 1, 1997; Laws 1999, c. 193, § 6, eff. July 1, 1999.

§49-132. Use of moneys for payment of pensions and other benefits and administration of System.

Money paid to the State Board for the benefit of the System shall, unless otherwise provided by law relating to the apportionment and payment of such moneys to the several municipalities of this state, be used solely for the payment of such pensions and other benefits to retired members of such fire department, injured or otherwise disabled members of such fire department, and beneficiaries of deceased members of such fire department, and such expenses of administering the System, as may be authorized by law.

Added by Laws 1977, c. 256, § 49-132, eff. July 1, 1978; Amended by Laws 1980, c. 352, § 43, eff. Jan. 1, 1980.

§49-133. Use of money for unauthorized purposes.

The Insurance Commissioner may examine the books and financial records of the State Board and when a written complaint is made to him under oath that any part of such money has been, or is being, expended or applied for purposes other than those authorized by Section 49-132 of this title, it shall be his duty to examine such books and financial records to determine if such complaint is true and if such an examination discloses that any such money has been, or is being, expended or applied for purposes

other than those authorized, it shall be his duty to report that fact to the Governor. Upon receiving such report, the Governor shall direct the State Treasurer not to issue any warrants to the State Board for the municipality involved until the Insurance Commissioner reports to the Governor that all monies wrongfully expended or applied have been replaced; provided that, the Governor may take such further action as the situation may demand.

Added by Laws 1977, c. 256, § 49-133, eff. July 1, 1978; Amended by Laws 1978, c. 280, § 4, eff. Jan. 1, 1979; Laws 1980, c. 352, § 44, eff. Jan. 1, 1981.

§49-134. Mandatory retirement at age sixty-five - Exception.

No person, who is eligible for retirement under the laws of this state pertaining to the System, shall serve in any capacity as a member of any fire department of any municipality of this state after having attained the age of sixty-five (65) years, provided, however, no person shall be required to retire because of the provisions of this section until such person shall have completed twenty (20) years service.

Added by Laws 1977, c. 256, § 49-134, eff. July 1, 1978; Amended by Laws 1980, c. 352, § 45, eff. Jan. 1, 1981.

§49-135. Employment of persons over forty-five prohibited - Exceptions - Reemployment.

No person shall be employed in a fire department who has reached the age of forty-five (45) years, unless it appears he shall become eligible for retirement at the age of sixty-five (65) years, or unless he be retired from a municipal fire department in the State of Oklahoma. This section shall not apply to professional engineers, or to persons employed as technical specialists on a temporary basis. The State Board shall be authorized to establish the maximum age, within the limits herein prescribed, over which an applicant may not be considered for initial employment, but no person shall be prohibited from making application for reemployment and having such reemployment application considered merely because of his age, provided that such person be under the age of forty-five (45) years, and provided further, that such reemployment shall be with the consent of the fire chief of such municipality.

Added by Laws 1977, c. 256, § 49-135, eff. July 1, 1978; Amended by Laws 1980, c. 352, § 46, eff. Jan. 1, 1981.

§49-136 Increase or decrease in pensions based on changes in base salaries

Any person receiving a pension who became a member of the System prior to January 1, 1981, which was based upon a percentage of the average salary paid to him during the last thirty (30) or sixty (60) months of his service, shall have such pension, or the pension of his or her surviving spouse as the case may be, increased or decreased by one-half (1/2) of all increases or decreases which shall occur in the salary of the regular firefighters in the municipality from which said person is receiving a pension; provided that said pension shall never be reduced below the original pension paid to such person for that purpose. The term "regular firefighters" shall for this purpose be defined as salaried firefighters who have reached their maximum salary as "privates" in their departments and have not been promoted to a position of rank. It shall be a violation of this article to establish a special classification for the purpose of evading the intent of this section.

Added by Laws 1977, c. 256, §49-136, eff. July 1, 1978; Amended by Laws 1980, c. 352, §47, eff. Jan. 1, 1981; Repealed by Laws 1983, c. 143, §8, emerg. eff. May 26, 1983; Reinstated by federal court order for those retired or had 20 years of service as of May 26, 1983.

§49-138. Military service credit.

A. Any member of a regularly constituted fire department of any municipality who is now serving or may hereafter serve in the Armed Forces of the United States whether such service is voluntary or involuntary, who shall have been a member of such fire department at the time of entering such service, shall be entitled to have the whole of the time of such service applied under the provisions of Section

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

B. Effective February 1, 1997, credited service received pursuant to this section or credited service for wartime military service received as otherwise provided by law shall be used in 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,
- b. September 16, 1940, to December 7, 1941, for members of the 45th Division,
- c. December 7, 1941, to December 31, 1946, commonly referred to as World War II,
- d. June 27, 1950, to January 31, 1955, commonly referred to as the Korean Conflict or the Korean War,
- e. February 28, 1961, to May 7, 1975, commonly referred to as the Vietnam era, except that:
 - (1) for the period from February 28, 1961, to August 4, 1964, military service shall only include service in the Republic of Vietnam during that period, and
 - (2) for purposes of determining eligibility for education and training benefits, such period shall end on December 31, 1976, or
- f. August 1, 1990, to December 31, 1991, commonly referred to as the Gulf War, the Persian Gulf War, or Operation Desert Storm, but excluding any person who served on active duty for training only, unless discharged from such active duty for a service-connected disability;

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

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

D. An eligible member pursuant to subsection C of this section shall include only those persons who shall have served during the times or in the areas prescribed in subsection C of this section, and only if such person provides appropriate documentation in such time and manner as required by the System to establish such military service prescribed in this section, or for service pursuant to division (1) of subparagraph e of paragraph 1 of subsection C of this section, those persons who were awarded service medals, as authorized by the United States Department of Defense as reflected in the veteran's Defense Department Form 214, related to the Vietnam Conflict for service prior to August 5, 1964. The provisions of subsection C of this section shall include military retirees, whose retirement was based only on active service, that have been rated as having twenty percent (20%) or greater service-connected disability by the Veterans Administration or the Armed Forces of the United States. The provisions of subsection C of this section shall not apply to any person who shall have served on active duty for training purposes only unless discharged from active duty for a service-connected disability.

E. Notwithstanding any provision herein to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986, which is in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994, (USERRA) as amended. The municipality's contributions to the System for a member covered by USERRA are due when such a member makes up his or her contributions that were missed due to his or her qualified military service.

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

Added by Laws 1977, c. 256, § 49-138, eff. July 1, 1978. Amended by Laws 1991, c. 125, § 3, emerg. eff. April 29, 1991; Laws 1997, c. 237, § 1, emerg. eff. May 23, 1997; Laws 1998, c. 192, § 1, eff. July 1, 1998; Laws 1999, c. 193, § 7, eff. July 1, 1999; Laws 2000, c. 327, § 14, eff. July 1, 2000; Laws 2003, c. 406, § 1, eff. July 1, 2003. Amended by Laws 2004, c. 302, § 1, emerg. eff. May 13, 2004; Laws 2005, c. 203, § 4, emerg. eff. May 20, 2005.

§49-139. Persons carried on roll of members during military absence - Advancements and promotions - Reinstatement - Reduction of compensation or dismissal.

Any such person shall be carried on the roll of members of the fire department during such absence and shall be entitled to all advancements, seniority and promotions under the rules, regulations and customs of the fire department, during his said absence, and all advancements and promotions made in the fire department during his absence in such military or naval service to which he would have been entitled shall only be filled temporarily and shall be subject to the rights of such person who shall, within ninety (90) days after he has been honorably discharged or received a certificate as a reserve component of the land or naval services, have the right to make application for reinstatement, and he shall have preference over any and all members of the fire department who have been employed by such municipality subsequent to his entering said military or naval service, and upon such application it shall be the duty of the executive head of the fire department to reinstate such person as an actual member of the fire department with all rights of advancements and promotions, provided, he has not been mentally or physically disabled since last serving in such fire department and is able to pass the usual and customary

physical and mental examination then required by the State Board for entry into said fire department, and he shall not thereafter be subject to reduction of compensation or dismissal without just cause.

Added by Laws 1977, c. 256, § 49-139, eff. July 1, 1978; Amended by Laws 1980, c. 352, § 48, eff. Jan. 1, 1981.

§49-140. Rejection for reinstatement - Examination by physicians.

If any person feels aggrieved by the findings of the physician giving the examination provided for in the preceding section, he may by written notice served upon the head of the fire department within thirty (30) days after he has been rejected for reinstatement, name one licensed physician to act with said examining physician, and the two said physicians shall, within eight (8) days thereafter, select a third physician, and the three said physicians shall, within ten (10) days thereafter, jointly examine said person, and within five (5) days thereafter certify to the State Board their findings. The findings of any two of said physicians shall be binding on all parties as to the physical and mental conditions of such person. If the two examining physicians first selected are unable to agree upon a third, then the presiding judge of the Oklahoma County district court shall name the third physician.

Added by Laws 1977, c. 256, § 49-140, eff. July 1, 1978; Amended by Laws 1980, c. 352, § 49, eff. Jan. 1, 1981.

§49-141. Participation in independent insurance or other benefits.

Any such person shall be entitled to participate in any independent insurance or other benefits offered by such municipality, or its fire department or members thereof, to the same effect as though he were in the actual service of such fire department.

Added by Laws 1977, c. 256, § 49-141, eff. July 1, 1978.

§49-142. Refusal to comply with act - Petition to district court - District attorney to represent applicant - Fees and costs.

In case a municipality, or official thereof, refuses to comply with the provisions of Sections 49-138 through 49-142 of this title, then any person entitled to the benefits hereof may file a petition in the Oklahoma County district court, without cost deposit, to specifically require such municipality, or official thereof, to comply with said provisions, and, as incident thereto, to compensate said person for any loss of wages or benefits suffered by such refusal. The court shall order a speedy hearing in any such case and shall advance it on the calendar. Upon application to the Oklahoma District Attorney by any person claiming to be entitled to the benefits of the provisions hereof, such District Attorney, if reasonably satisfied that the person so applying is entitled to such benefits, shall appear and act as attorney for such person in the amicable adjustment of the claim or in the filing of the petition and the prosecution thereof. The action in the district court shall be brought within ninety (90) days from the date of the refusal of the municipality, or its representative, to comply with the provisions of this act. No fees or court costs shall be taxed against the person so applying.

Added by Laws 1977, c. 256, § 49-142, eff. July 1, 1978; Amended by Laws 1980, c. 352, § 50, eff. Jan. 1, 1981.

§49-143. Increase in pension benefits.

Any person receiving benefits from the Oklahoma Firefighters Pension and Retirement System as of June 30, 1986, shall receive a six percent (6%) increase in said benefits on July 1, 1986. The provisions of this section shall not apply to members receiving benefits pursuant to the provisions of Section 49-101 of this title.

Added by Laws 1985, c. 222, § 12, emerg. eff. July 8, 1985. Amended by Laws 1986, c. 187, § 2, operative July 1, 1986.

§49-143.1. Increase in benefits – July 1, 2002 - Offset.

A. Except as provided in subsection B of this section and except for persons receiving benefits pursuant to Section 49-101 of this title, effective July 1, 2002, any person receiving benefits from the Oklahoma Firefighters Pension and Retirement System as of June 30, 2001, who continues to receive

benefits on or after July 1, 2002, shall receive a five percent (5%) increase in said benefits on July 1, 2002.

B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 49-136 of this title after June 30, 2000, shall be used to offset the increase in benefits provided in subsection A of this section.

C. Effective July 1, 2002, any persons receiving benefits pursuant to Section 49-101 of this title shall each receive a benefit equal to Six Dollars and sixty-nine cents (\$6.69) for each year of credited service not to exceed thirty (30) years of service.

Added by Laws 1988, c. 267, § 5, operative July 1, 1988. Amended by Laws 1990, c. 340, § 5, eff. July 1, 1990; Laws 1994, c. 383, § 3, eff. July 1, 1994; Laws 1998, c. 317, § 1, eff. July 1, 1998; Laws 1999, c. 228, § 1, eff. July 1, 1999; Laws 2000, c. 377, § 1, eff. July 1, 2000; Laws 2002, c. 394, § 1, eff. July 1, 2002.

§49-143.2. Additional retirement benefit.

A. The Oklahoma Firefighters Pension and Retirement System shall pay to its retirees, who retire not later than June 30, 1997, or their beneficiaries, from assets of the retirement system, an additional amount, for the fiscal year ending June 30, 1998, based upon the number of years of credited service upon which the retirement benefit of the member was computed as follows:

1. For paid firefighters:

- a. One Hundred Fifty Dollars (\$150.00) for at least ten (10), but no more than fourteen (14) years of service,
- b. Three Hundred Dollars (\$300.00) for at least fifteen (15), but no more than nineteen (19) years of service,
- c. Four Hundred Fifty Dollars (\$450.00) for at least twenty (20), but no more than twenty-four (24) years of service, and
- d. Six Hundred Dollars (\$600.00) for twenty-five (25) or more years of service.

2. For volunteer firefighters:

- a. Seventy-five Dollars (\$75.00) for at least ten (10), but no more than fourteen (14) years of service,
- b. One Hundred Fifty Dollars (\$150.00) for at least fifteen (15), but no more than nineteen (19) years of service,
- c. Two Hundred Twenty-five Dollars (\$225.00) for at least twenty (20), but no more than twenty-four (24) years of service, and
- d. Three Hundred Dollars (\$300.00) for twenty-five (25) or more years of service;

3. One Hundred Fifty Dollars (\$150.00) for a paid firefighter with less than ten (10) years of service who received a disability retirement; and

4. Seventy-five Dollars (\$75.00) for a volunteer firefighter with less than ten (10) years of service who received a disability retirement.

B. For purposes of subsection A or B of this section, months of credited service in excess of a whole number of years shall be disregarded for purposes of determining the applicable payment amount.

C. The payment authorized by this section shall be distributed not later than August 1, 1997.

D. The payment authorized by this section shall not be a recurring benefit and shall only be made for the fiscal year ending June 30, 1998, and for no other fiscal year.

E. If a retiree has multiple beneficiaries, the amount prescribed by subsection A of this section shall be divided equally among the beneficiaries on a per capita basis.

Added by Laws 1997, c. 384, § 19, eff. July 1, 1997.

§49-143.3. Benefit adjustment - Restoration of Initial COLA Benefit.

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

1. "Initial COLA Benefit Date" means the later of the member's date of benefit commencement or January 1, 1981. This date is used in the definition of Initial COLA Benefit and Target COLA Benefit;

2. "Initial COLA Benefit" means the accrued retirement benefit which will be used as the base benefit for determining the Target COLA Benefit. The Initial COLA Benefit equals the benefit in payment status as of the Initial COLA Benefit Date. Furthermore, this benefit will reflect adjustment for military service credits, if any, granted after the Initial COLA Benefit Date;

3. "CPI-U" means the Consumer Price Index for all urban consumers for all goods and services, as published by the Bureau of Labor Statistics, U.S. Department of Labor. This is used as a measure of price inflation for the development of the Target COLA Benefit defined below; and

4. "Target COLA Benefit" is the Initial COLA Benefit adjusted to reflect price inflation as measured by CPI-U. The Target COLA Benefit is calculated for each eligible member to equal the member's Initial COLA Benefit multiplied by a ratio of (A) divided by (B) as follows:

(A) is the CPI-U as of July 1, 1997.

(B) is the CPI-U as of July 1 of the calendar year of the Initial COLA Benefit Date.

B. The Board shall, effective July 1, 1999, implement a benefit adjustment, to increase, if necessary, the retirement benefit for any person receiving benefits from the System as of June 30, 1997. This benefit adjustment is intended to restore one hundred percent (100%) of the loss of the Initial COLA Benefit, if any, due to price inflation, as measured by CPI-U. The benefit adjustment shall be one hundred percent (100%) of the amount by which the Target COLA Benefit is in excess, if any, of the June 1998 retirement benefit. Persons who retired after December 31, 1996 and before July 1, 1997, shall receive a benefit increase based on one hundred percent (100%) of one-half (1/2) of the CPI-U change for the period beginning January 1, 1997 and before July 1, 1997.

C. Any increase in benefits a person is eligible to receive pursuant to repealed Section 49-136 of Title 11 of the Oklahoma Statutes, after June 30, 1998, shall be offset by the increase in benefits, if any, provided by this section.

Added by Laws 1998, c. 317, § 2, eff. July 1, 1998. Amended by Laws 1999, c. 228, § 2, eff. July 1, 1999.

§49-143.4. Increase in benefits – July 1, 2004 - Offset.

A. Except as provided in subsection B of this section and except for persons receiving benefits pursuant to Section 49-101 of Title 11 of the Oklahoma Statutes, effective July 1, 2004, any person receiving benefits from the Oklahoma Firefighters Pension and Retirement System as of June 30, 2003, who continues to receive benefits on or after July 1, 2004, shall receive a four-percent increase in said benefits beginning in July 2004.

B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 49-136 of Title 11 of the Oklahoma Statutes after June 30, 2002, shall be used to offset the increase in benefits provided in subsection A of this section.

C. Effective July 1, 2004, any persons receiving benefits pursuant to Section 49-101 of Title 11 of the Oklahoma Statutes shall each receive a monthly benefit equal to Six Dollars and ninety-six cents (\$6.96) for each year of credited service not to exceed thirty (30) years of service.

Added by Laws 2004, c. 536, § 2, eff. July 1, 2004.

§11-49-143.5. Increase in benefits - July 1, 2006 - Offset.

A. Except as provided in subsection B of this section and except for persons receiving benefits pursuant to Section 49-101 of Title 11 of the Oklahoma Statutes, effective July 1, 2006, any person receiving benefits from the Oklahoma Firefighters Pension and Retirement System as of June 30, 2005, who continues to receive benefits on or after July 1, 2006, shall receive a four-percent increase in said benefits beginning in July 2006.

B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 49-136 of Title 11 of the Oklahoma Statutes after June 30, 2004, shall be used to offset the increase in benefits provided in subsection A of this section.

C. Effective July 1, 2006, any persons receiving benefits pursuant to Section 49-101 of Title 11 of the Oklahoma Statutes shall each receive a monthly benefit equal to Seven Dollars and twenty-four cents (\$7.24) for each year of credited service not to exceed thirty (30) years of service.

Added by Laws 2006, 2nd Ex. Sess., c. 46, § 5, eff. July 1, 2006.

Comment [12]: BDERIV

§11-49-143.6. Increase in benefits - July 1, 2008 - Offset.

A. Except as provided in subsection B of this section and except for persons receiving benefits pursuant to Section 49-101 of Title 11 of the Oklahoma Statutes, effective July 1, 2008, any person receiving benefits from the Oklahoma Firefighters Pension and Retirement System as of June 30, 2007, who continues to receive benefits on or after July 1, 2008, shall receive a four-percent increase in said benefits on July 1, 2008.

B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 49-136 of Title 11 of the Oklahoma Statutes after June 30, 2006, shall be used to offset the increase in benefits provided in subsection A of this section.

C. Effective July 1, 2008, any persons receiving benefits pursuant to Section 49-101 of Title 11 of the Oklahoma Statutes shall each receive a benefit equal to Seven Dollars and fifty-three cents (\$7.53) for each year of credited service not to exceed thirty (30) years of service.

Added by Laws 2008, c. 415, § 1, eff. July 1, 2008.

Comment [13]: BDERIV