

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 2269

By: West (Josh) of the House

and

Rosino of the SenateAS INTRODUCED

An Act relating to public retirement systems; amending 11 O.S. 2011, Sections 49-106.2, as last amended by Section 4, Chapter 281, O.S.L. 2014 and 49-113.2, as amended by Section 5, Chapter 281, O.S.L. 2014 (11 O.S. Supp. 2018, Sections 49-106.2 and 49-113.2), which relate to the Oklahoma Firefighters Pension and Retirement System; modifying provisions related to computation of certain annuity values; providing for payment of benefits pursuant to statutory provisions; modifying provisions related to probate waiver for payment of death benefits; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 49-106.2, as last amended by Section 4, Chapter 281, O.S.L. 2014 (11 O.S. Supp. 2018, Section 49-106.2), is amended to read as follows:

Section 49-106.2 A. For limitation years prior to July 1, 2007, the limitations of Section 415 of the Internal Revenue Code of

1 1986, as amended, shall be computed in accordance with the
2 applicable provisions of the System in effect at that time and, to
3 the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-
4 51, except as provided below. Notwithstanding any other provision
5 contained herein to the contrary, the benefits payable to a member
6 from the System provided by employer contributions (including
7 contributions picked up by the employer under Section 414(h) of the
8 Internal Revenue Code of 1986, as amended) shall be subject to the
9 limitations of Section 415 of the Internal Revenue Code of 1986, as
10 amended, in accordance with the provisions of this section. The
11 limitations of this section shall apply in limitation years
12 beginning on or after July 1, 2007, except as otherwise provided
13 below.

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

1 1986, as amended, shall apply to a member who has had a severance
2 from employment.

3 1. The member's annual benefit is a benefit that is payable
4 annually in the form of a straight life annuity. Except as provided
5 below, where a benefit is payable in a form other than a straight
6 life annuity, the benefit shall be adjusted to an actuarially
7 equivalent straight life annuity that begins at the same time as
8 such other form of benefit and is payable on the first day of each
9 month, before applying the limitations of this section. For a
10 member who has or will have distributions commencing at more than
11 one annuity starting date, the annual benefit shall be determined as
12 of each such annuity starting date (and shall satisfy the
13 limitations of this section as of each such date), actuarially
14 adjusting for past and future distributions of benefits commencing
15 at the other annuity starting dates. For this purpose, the
16 determination of whether a new starting date has occurred shall be
17 made without regard to Section 1.401(a)-20, Q&A 10(d), and with
18 regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax
19 Regulations.

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

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

- b. benefits that are not directly related to retirement benefits such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits, or
- c. the inclusion in the form of benefit of an automatic benefit increase feature, provided, the form of benefit is not subject to Section 417(e)(3) of the Internal Revenue Code of 1986, as amended, and would otherwise satisfy the limitations of this section, and the System provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this section applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Internal Revenue Code of 1986, as amended. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

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

1 of the Income Tax Regulations, but shall disregard benefits
2 attributable to employee contributions or rollover contributions.

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

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

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

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

- 19 (1) the death of the survivor annuitant, but only if
20 the reduction is not below fifty percent (50%) of
21 the benefit payable before the death of the
22 survivor annuitant, or
23 (2) the cessation or reduction of Social Security
24 supplements or qualified disability payments as

defined in Section 411(a)(9) of the Internal Revenue Code of 1986, as amended.

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

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

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

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

e. Limitation Years Beginning On or After July 1, 2008.

For limitation years beginning on or after July 1, 2008, the actuarially equivalent straight life annuity is equal to the greater of:

- (1) the annual amount of the straight life annuity, if any, payable to the member under the System commencing at the same annuity starting date as the member's form of benefit, and
- (2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the

1 member's form of benefit, computed using a five
2 percent (5%) interest rate assumption and the
3 applicable mortality table within the meaning of
4 Section 417(e)(3)(B) of the Internal Revenue Code
5 of 1986, as amended, as described in Revenue
6 Ruling 2007-67 (and subsequent guidance) for that
7 annuity starting date.

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

- 15 a. Annuity Starting Date on or after January 1, 2009. If
16 the annuity starting date of the member's form of
17 benefit is in the period beginning on January 1, 2009
18 through June 30, 2009, or in a plan year beginning
19 after June 30, 2009, the actuarially equivalent
20 straight life annuity is equal to the greatest of
21 divisions (1), (2) and (3) of this subparagraph:
22 (1) the annual amount of the straight life annuity
23 commencing at the same annuity starting date that
24 has the same actuarial present value as the

1 member's form of benefit, computed using the
2 interest rate and the mortality table or other
3 tabular factor as set forth in the most recent
4 actuarial valuation referenced in subsection H of
5 Section 49-100.9 of this title prior to September
6 1, 2011, and effective September 1, 2011, in
7 subsection L of this section for adjusting
8 benefits in the same form,

9 (2) the annual amount of the straight life annuity
10 commencing at the same annuity starting date that
11 has the same actuarial present value as the
12 member's form of benefit, computed using a five
13 and one-half percent (5.5%) interest rate
14 assumption and the applicable mortality table
15 within the meaning of Section 417(e)(3)(B) of the
16 Internal Revenue Code of 1986, as amended, as
17 described in Revenue Ruling 2007-67 (and
18 subsequent guidance), and

19 (3) the annual amount of the straight life annuity
20 commencing at the same annuity starting date that
21 has the same actuarial present value as the
22 member's form of benefit, ~~computing~~ computed
23 using:
24

- 1 (a) i. in a plan year beginning after June 30,
2 2019, the applicable interest rate
3 under Section 417(e)(3) of the Internal
4 Revenue Code of 1986, as amended (and
5 subsequent guidance), for the fourth
6 calendar month preceding the plan year
7 in which falls the annuity starting
8 date for the distribution and the
9 stability period is the successive
10 period of one (1) plan year which
11 contains the annuity starting date for
12 the distribution and for which the
13 applicable interest rate remains
14 constant, and
- 15 ii. in a plan year beginning before July 1,
16 2019, the adjusted first, second, and
17 third segment rates under Section
18 417(e)(3)(C) and (D) of the Internal
19 Revenue Code of 1986, as amended,
20 applied under rules similar to the
21 rules of Section 430(h)(2)(C) of the
22 Internal Revenue Code of 1986, as
23 amended, for the fourth calendar month
24 preceding the plan year in which falls

1 the annuity starting date for the
2 distribution and the stability period
3 is the successive period of one plan
4 year which contains the annuity
5 starting date for the distribution and
6 for which the applicable interest rate
7 remains constant, or as otherwise
8 provided in the applicable guidance if
9 the first day of the first plan year
10 beginning after December 31, 2007, does
11 not coincide with the first day of the
12 applicable stability period, and

13 (b) the applicable mortality table within the
14 meaning of Section 417(e)(3)(B) of the
15 Internal Revenue Code of 1986, as amended,
16 as described in Rev. Rul. 2007-67 (and
17 subsequent guidance),

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

19 b. Annuity Starting Date in the Period Beginning on July
20 1, 2008 through December 31, 2008. If the annuity
21 starting date of the member's form of benefit is in
22 the period beginning on July 1, 2008 through December
23 31, 2008, the actuarially equivalent straight life
24

1 annuity is equal to the greatest of divisions (1), (2)
2 and (3) of this subparagraph:

3 (1) the annual amount of the straight life annuity
4 commencing at the same annuity starting date that
5 has the same actuarial present value as the
6 member's form of benefit, computed using the
7 interest rate and the mortality table or other
8 tabular factor each as set forth in subsection H
9 of Section 49-100.9 of this title for adjusting
10 benefits in the same form,

11 (2) the annual amount of the straight life annuity
12 commencing at the same annuity starting date that
13 has the same actuarial present value as the
14 member's form of benefit, computed using a five
15 and one-half percent (5.5%) interest rate
16 assumption and the applicable mortality table
17 described in Revenue Ruling 2001-62 (or its
18 successor for these purposes, if applicable), and

19 (3) the annual amount of the straight life annuity
20 commencing at the same annuity starting date that
21 has the same actuarial present value as the
22 member's form of benefit, computed using:
23 (a) the adjusted first, second, and third
24 segment rates under Section 417(e)(3)(C) and

(D) of the Internal Revenue Code of 1986, as amended, applied under rules similar to the rules of Section 430(h)(2)(C) of the Internal Revenue Code of 1986, as amended, for the fourth calendar month preceding the plan year in which falls the annuity starting date for the distribution and the stability period is the successive period of one (1) plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, or as otherwise provided in the applicable guidance if the first day of the first plan year beginning after December 31, 2007, does not coincide with the first day of the applicable stability period, and

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

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

c. Annuity Starting Date in Plan Years Beginning in 2006 or 2007. If the annuity starting date of the member's form of benefit is in a plan year beginning in 2006 or 2007, the actuarially equivalent straight life annuity

1 is equal to the greatest of divisions (1), (2) and (3)
2 of this subparagraph:

3 (1) the annual amount of the straight life annuity
4 commencing at the same annuity starting date that
5 has the same actuarial present value as the
6 member's form of benefit, computed using the
7 interest rate and the mortality table (or other
8 tabular factor) each as set forth in subsection H
9 of Section 49-100.9 of this title for adjusting
10 benefits in the same form,

11 (2) the annual amount of the straight life annuity
12 commencing at the same annuity starting date that
13 has the same actuarial present value as the
14 member's form of benefit, computed using a five
15 and one-half percent (5.5%) interest rate
16 assumption and the applicable mortality table
17 described in Revenue Ruling 2001-62 (or its
18 successor for these purposes, if applicable), and

19 (3) the annual amount of the straight life annuity
20 commencing at the same annuity starting date that
21 has the same actuarial present value as the
22 member's form of benefit, computed using:

23 (a) the rate of interest on thirty-year Treasury
24 securities as specified by the Commissioner

1 for the lookback month for the stability
2 period specified below. The lookback month
3 applicable to the stability period is the
4 fourth calendar month preceding the first
5 day of the stability period, as specified
6 below. The stability period is the
7 successive period of one (1) plan year which
8 contains the annuity starting date for the
9 distribution and for which the applicable
10 interest rate remains constant, and

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

15 d. Annuity Starting Date in Plan Years Beginning in 2004
16 or 2005.

17 (1) If the annuity starting date of the member's form
18 of benefit is in a plan year beginning in 2004 or
19 2005, the actuarially equivalent straight life
20 annuity is equal to the annual amount of the
21 straight life annuity commencing at the same
22 annuity starting date that has the same actuarial
23 present value as the member's form of benefit,
24

1 computed using whichever of the following
2 produces the greater annual amount:

- 3 (a) the interest rate and the mortality table or
4 other tabular factor, each as set forth in
5 subsection H of Section 49-100.9 of this
6 title for adjusting benefits in the same
7 form, and
8 (b) a five and one-half percent (5.5%) interest
9 rate assumption and the applicable mortality
10 table described in Revenue Ruling 2001-62
11 (or its successor for these purposes, if
12 applicable).

- 13 (2) If the annuity starting date of the member's
14 benefit is on or after the first day of the first
15 plan year beginning in 2004 and before December
16 31, 2004, the application of this subparagraph
17 shall not cause the amount payable under the
18 member's form of benefit to be less than the
19 benefit calculated under the System, taking into
20 account the limitations of this section, except
21 that the actuarially equivalent straight life
22 annuity is equal to the annual amount of the
23 straight life annuity commencing at the same
24 annuity starting date that has the same actuarial

1 present value as the member's form of benefit,
2 computed using whichever of the following
3 produces the greatest annual amount:

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

9 (b) i. the rate of interest on thirty-year
10 Treasury securities as specified by the
11 Commissioner for the lookback month for
12 the stability period specified below.
13 The lookback month applicable to the
14 stability period is the fourth calendar
15 month preceding the first day of the
16 stability period, as specified below.
17 The stability period is the successive
18 period of one (1) plan year which
19 contains the annuity starting date for
20 the distribution and for which the
21 applicable interest rate remains
22 constant, and
23 ii. the applicable mortality table
24 described in Revenue Ruling 2001-62 (or

1 its successor for these purposes, if
2 applicable), and

3 (c) i. the rate of interest on thirty-year
4 Treasury securities as specified by the
5 Commissioner for the lookback month for
6 the stability period specified below.

7 The lookback month applicable to the
8 stability period is the fourth calendar
9 month preceding the first day of the
10 stability period, as specified below.

11 The stability period is the successive
12 period of one plan year which contains
13 the annuity starting date for the
14 distribution and for which the
15 applicable interest rate remains
16 constant (as in effect on the last day
17 of the last plan year beginning before
18 January 1, 2004, under provisions of
19 the System then adopted and in effect),
20 and

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

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

8 D. Adjustment of Dollar Limitation for Benefit Commencement
9 Before Sixty-two (62) Years of Age or After Sixty-five (65) Years of
10 Age: Effective for benefits commencing in limitation years ending
11 after December 31, 2001, the dollar limitation under subsection B of
12 this section shall be adjusted if the annuity starting date of the
13 member's benefit is before sixty-two (62) years of age or after
14 sixty-five (65) years of age. If the annuity starting date is
15 before sixty-two (62) years of age, the dollar limitation under
16 subsection B of this section shall be adjusted under paragraph 1 of
17 this subsection, as modified by paragraph 3 of this subsection, but
18 subject to paragraph 4 of this subsection. If the annuity starting
19 date is after sixty-five (65) years of age, the dollar limitation
20 under subsection B of this section shall be adjusted under paragraph
21 2 of this subsection, as modified by paragraph 3 of this subsection.

22 1. Adjustment of Defined Benefit Dollar Limitation for Benefit
23 Commencement Before Sixty-two (62) Years of Age:
24

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

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

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

23 b. Limitation Years Beginning On or After July 1, 2007.
24

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

5 (a) If the annuity starting date for the
6 member's benefit is prior to sixty-two (62)
7 years of age and occurs in the limitation
8 year beginning on January 1, 2008, and the
9 System does not have an immediately
10 commencing straight life annuity payable at
11 both sixty-two (62) years of age and the age
12 of benefit commencement, the dollar
13 limitation for the member's annuity starting
14 date is the annual amount of a benefit
15 payable in the form of a straight life
16 annuity commencing at the member's annuity
17 starting date that is the actuarial
18 equivalent of the dollar limitation under
19 subsection B of this section (adjusted under
20 subsection C of this section for years of
21 participation less than ten (10), if
22 required) with actuarial equivalence
23 computed using a five percent (5%) interest
24 rate assumption and the applicable mortality

1 table for the annuity starting date as
2 described in Revenue Ruling 2001-62 (or its
3 successor for these purposes, if applicable)
4 (and expressing the member's age based on
5 completed calendar months as of the annuity
6 starting date).

7 (b) If the annuity starting date for the
8 member's benefit is prior to sixty-two (62)
9 years of age and occurs in a limitation year
10 beginning on or after January 1, 2009, and
11 the System does not have an immediately
12 commencing straight life annuity payable at
13 both sixty-two (62) years of age and the age
14 of benefit commencement, the dollar
15 limitation for the member's annuity starting
16 date is the annual amount of a benefit
17 payable in the form of a straight life
18 annuity commencing at the member's annuity
19 starting date that is the actuarial
20 equivalent of the dollar limitation under
21 subsection B of this section (adjusted under
22 subsection C of this section for years of
23 participation less than ten (10), if
24 required) with actuarial equivalence

1 computed using a five percent (5%) interest
2 rate assumption and the applicable mortality
3 table within the meaning of Section
4 417(e)(3)(B) of the Internal Revenue Code of
5 1986, as amended, as described in Revenue
6 Ruling 2007-67 (and subsequent guidance)
7 (and expressing the member's age based on
8 completed calendar months as of the annuity
9 starting date).

- 10 (2) System Has Immediately Commencing Straight Life
11 Annuity Payable at Both Sixty-two (62) Years of
12 Age and the Age of Benefit Commencement. If the
13 annuity starting date for the member's benefit is
14 prior to sixty-two (62) years of age and occurs
15 in a limitation year beginning on or after July
16 1, 2007, and the System has an immediately
17 commencing straight life annuity payable at both
18 sixty-two (62) years of age and the age of
19 benefit commencement, the dollar limitation for
20 the member's annuity starting date is the lesser
21 of the limitation determined under division (1)
22 of this subparagraph and the dollar limitation
23 under subsection B of this section (adjusted
24 under subsection C of this section for years of

1 participation less than ten (10), if required)
2 multiplied by the ratio of the annual amount of
3 the immediately commencing straight life annuity
4 under the System at the member's annuity starting
5 date to the annual amount of the immediately
6 commencing straight life annuity under the System
7 at sixty-two (62) years of age, both determined
8 without applying the limitations of this section.

9 (3) Effective for limitation years commencing on or
10 after January 1, 2014, notwithstanding any other
11 provision of paragraph 1 of this subsection, the
12 age-adjusted dollar limit applicable to a member
13 shall not decrease on account of an increase in
14 age or the performance of additional services.

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

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

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

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

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

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

- 20 (a) If the annuity starting date for the
21 member's benefit is after sixty-five (65)
22 years of age and occurs in the limitation
23 year beginning on January 1, 2008, and the
24 System does not have an immediately

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

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

beginning on or after January 1, 2009, and the System does not have an immediately commencing straight life annuity payable at both sixty-five (65) years of age and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Revenue Ruling 2007-67 (and subsequent guidance) (and expressing the member's age based on completed calendar months as of the annuity starting date).

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

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

15 3. Notwithstanding the other requirements of this subsection,
16 in adjusting the dollar limitation for the member's annuity starting
17 date under subparagraph a of paragraph 1 of this subsection,
18 division (1) of subparagraph b of paragraph 1 of this subsection,
19 subparagraph a of paragraph 2 of this subsection, or division (1) of
20 subparagraph b of paragraph 2 of this subsection, no adjustment
21 shall be made to reflect the probability of a member's death between
22 the annuity starting date and sixty-two (62) years of age, or
23 between sixty-five (65) years of age and the annuity starting date,
24 as applicable, if benefits are not forfeited upon the death of the

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

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

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

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

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

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

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

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

9 H. If a member purchases service credit under the System, which
10 qualifies as "permissive service credit" pursuant to Section 415(n)
11 of the Internal Revenue Code of 1986, as amended, the limitations of
12 Section 415 of the Internal Revenue Code of 1986, as amended, may be
13 met by either:

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

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

19 I. If a member repays to the System any amounts refunded from
20 the System because of the member's prior termination or any other
21 amount which qualifies as a repayment under Section 415(k)(3) of the
22 Internal Revenue Code of 1986, such repayment shall not be taken
23 into account for purposes of Section 415 of the Internal Revenue
24

1 Code of 1986, as amended, pursuant to Section 415(k)(3) of the
2 Internal Revenue Code of 1986, as amended.

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

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

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

15 M. All benefits payable from the Oklahoma Firefighters Pension
16 and Retirement System including payments from the deferred option
17 plan under Section 49-106.1 of this title shall be paid from the
18 general assets of the Fund pursuant to subsection B of Section 49-
19 100.11 of this title.

20 SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-113.2, as
21 amended by Section 5, Chapter 281, O.S.L. 2014 (11 O.S. Supp. 2018,
22 Section 49-113.2), is amended to read as follows:

23 Section 49-113.2 A. Upon the death of an active or retired
24 member, the System shall pay to the surviving spouse of the member

1 if the surviving spouse has been married to the firefighter for
2 thirty (30) continuous months preceding the member's death provided
3 a surviving spouse of a member who died while in, or as a
4 consequence of, the performance of the member's duty for a
5 participating municipality shall not be subject to the marriage
6 limitation for survivor benefits, or if there is no surviving spouse
7 or no surviving spouse meeting the requirements of this section, the
8 System shall pay to the designated recipient or recipients of the
9 member, or if there is no designated recipient or if the designated
10 recipient predeceases the member, to the estate of the member, the
11 sum of Four Thousand Dollars (\$4,000.00) for those active or retired
12 members who died prior to July 1, 1999. For those active or retired
13 members who die on or after July 1, 1999, the sum shall be Five
14 Thousand Dollars (\$5,000.00).

15 B. Upon the death of a member who dies leaving no living
16 designated recipient or having designated the member's estate as
17 recipient, the System may pay any applicable death benefit which may
18 be subject to probate, in an amount of Five Thousand Dollars
19 (\$5,000.00), to the heir or heirs of the member without the
20 intervention of a probate court or probate procedures.

21 C. Before any applicable probate procedure may be waived, the
22 System must be in receipt of the member's proof of death and the
23 following documents from those persons claiming to be the legal
24 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)~~ the dollar limit stated in Section 393 of Title 58 of the Oklahoma Statutes (Fifty Thousand Dollars (\$50,000.00) in 2018), 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;

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

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

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

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

18 E. After paying any death benefits to any claiming heirs as
19 provided pursuant to this section, the System is discharged and
20 released from any and all liability, obligation and costs to the
21 same extent as if the System had paid a personal representative
22 holding valid letters testamentary issued by a court of competent
23 jurisdiction. The System is not required to inquire into the truth
24

1 of any matter specified in this section or into the payment of any
2 estate tax liability.

3 F. The provisions of this section shall not be subject to
4 qualified domestic orders as provided in subsection B of Section 49-
5 126 of this title.

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

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

- 16 a. such refusal is in writing,
- 17 b. such writing is received by the System not later than
18 the date which is nine (9) months after the date of
19 death of the deceased member,
- 20 c. such person has not accepted the death benefit
21 provided for in subsection A of this section, and
- 22 d. as a result of such refusal, the death benefit
23 provided for in subsection A of this section passes
24 without any direction on the part of the person making

1 the disclaimer and passes first, to the organization
2 providing funeral and burial services for the deceased
3 member or, if the cost of the funeral and burial
4 services for the deceased member has already been
5 paid, to the person or persons other than the person
6 making the disclaimer as further provided for in this
7 section.

8 SECTION 3. This act shall become effective July 1, 2019.

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

13
14 COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND
15 PENSIONS, dated 02/27/2019 - DO PASS, As Coauthored.
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THOMAS E. CUMMINS CONSULTING ACTUARY, INC.

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December 17, 2018

Representative Josh West
Room 242 A

Re: RBH No. 5250

RBH No. 5250 changes the Oklahoma Firefighter Pension and Retirement System's definition of actuarial present value to conform to IRS definition of actuarial present value.

RBH No. 5250 states all benefits will be paid from the general fund of the system.

RBH No.5250 is a non fiscal bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act because there was no benefit increase contained in this bill.

I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Thomas E. Cummins

Thomas E. Cummins, MAAA