

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 2269

By: West (Josh)

AS 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 1986, as amended, shall be computed in accordance with the applicable provisions of the System in effect at that time and, to the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-

51, except as provided below. Notwithstanding any other provision contained herein to the contrary, the benefits payable to a member from the System provided by employer contributions (including contributions picked up by the employer under Section 414(h) of the Internal Revenue Code of 1986, as amended) shall be subject to the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, in accordance with the provisions of this section. The limitations of this section shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided below.

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

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

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

- 19 a. survivor benefits payable to a surviving spouse under
20 a qualified joint and survivor annuity to the extent
21 such benefits would not be payable if the member's
22 benefit were paid in another form,
- 23 b. benefits that are not directly related to retirement
24 benefits such as a qualified disability benefit,

1 preretirement incidental death benefits, and
2 postretirement medical benefits, or
3 c. the inclusion in the form of benefit of an automatic
4 benefit increase feature, provided, the form of
5 benefit is not subject to Section 417(e)(3) of the
6 Internal Revenue Code of 1986, as amended, and would
7 otherwise satisfy the limitations of this section, and
8 the System provides that the amount payable under the
9 form of benefit in any limitation year shall not
10 exceed the limits of this section applicable at the
11 annuity starting date, as increased in subsequent
12 years pursuant to Section 415(d) of the Internal
13 Revenue Code of 1986, as amended. For this purpose,
14 an automatic benefit increase feature is included in a
15 form of benefit if the form of benefit provides for
16 automatic, periodic increases to the benefits paid in
17 that form.

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

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

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

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

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

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

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

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

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

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

- 22 (1) the annual amount of the straight life annuity,
23 if any, payable to the member under the System
24

1 commencing at the same annuity starting date as
2 the member's form of benefit, and

- 3 (2) 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 a five
7 percent (5%) interest rate assumption and the
8 applicable mortality table described in Revenue
9 Ruling 2001-62 (or its successor for these
10 purposes, if applicable) for that annuity
11 starting date.

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

13 For limitation years beginning on or after July 1,
14 2008, the actuarially equivalent straight life annuity
15 is equal to the greater of:

- 16 (1) the annual amount of the straight life annuity,
17 if any, payable to the member under the System
18 commencing at the same annuity starting date as
19 the member's form of benefit, and
20 (2) the annual amount of the straight life annuity
21 commencing at the same annuity starting date that
22 has the same actuarial present value as the
23 member's form of benefit, computed using a five
24 percent (5%) interest rate assumption and the

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

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

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

20 (1) the annual amount of the straight life annuity
21 commencing at the same annuity starting date that
22 has the same actuarial present value as the
23 member's form of benefit, computed using the
24 interest rate and the mortality table or other

1 tabular factor as set forth in the most recent
2 actuarial valuation referenced in subsection H of
3 Section 49-100.9 of this title prior to September
4 1, 2011, and effective September 1, 2011, in
5 subsection L of this section for adjusting
6 benefits in the same form,

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

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

22 (a) i. in a plan year beginning after June 30,
23 2019, the applicable interest rate
24 under Section 417(e)(3) of the Internal

1 Revenue Code of 1986, as amended (and
2 subsequent guidance), for the fourth
3 calendar month preceding the plan year
4 in which falls the annuity starting
5 date for the distribution and the
6 stability period is the successive
7 period of one (1) plan year which
8 contains the annuity starting date for
9 the distribution and for which the
10 applicable interest rate remains
11 constant, and

12 ii. in a plan year beginning before July 1,
13 2019, the adjusted first, second, and
14 third segment rates under Section
15 417(e) (3) (C) and (D) of the Internal
16 Revenue Code of 1986, as amended,
17 applied under rules similar to the
18 rules of Section 430(h) (2) (C) of the
19 Internal Revenue Code of 1986, as
20 amended, for the fourth calendar month
21 preceding the plan year in which falls
22 the annuity starting date for the
23 distribution and the stability period
24 is the successive period of one plan

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

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

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

16 b. Annuity Starting Date in the Period Beginning on July
17 1, 2008 through December 31, 2008. If the annuity
18 starting date of the member's form of benefit is in
19 the period beginning on July 1, 2008 through December
20 31, 2008, the actuarially equivalent straight life
21 annuity is equal to the greatest of divisions (1), (2)
22 and (3) of this subparagraph:

23 (1) the annual amount of the straight life annuity
24 commencing at the same annuity starting date that

1 has the same actuarial present value as the
2 member's form of benefit, computed using the
3 interest rate and the mortality table or other
4 tabular factor each as set forth in subsection H
5 of Section 49-100.9 of this title for adjusting
6 benefits in the same form,

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

15 (3) the annual amount of the straight life annuity
16 commencing at the same annuity starting date that
17 has the same actuarial present value as the
18 member's form of benefit, computed using:

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

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

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

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

17 c. Annuity Starting Date in Plan Years Beginning in 2006
18 or 2007. If the annuity starting date of the member's
19 form of benefit is in a plan year beginning in 2006 or
20 2007, the actuarially equivalent straight life annuity
21 is equal to the greatest of divisions (1), (2) and (3)
22 of this subparagraph:

23 (1) the annual amount of the straight life annuity
24 commencing at the same annuity starting date that

1 has the same actuarial present value as the
2 member's form of benefit, computed using the
3 interest rate and the mortality table (or other
4 tabular factor) each as set forth in subsection H
5 of Section 49-100.9 of this title for adjusting
6 benefits in the same form,

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

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

1 day of the stability period, as specified
2 below. The stability period is the
3 successive period of one (1) plan year which
4 contains the annuity starting date for the
5 distribution and for which the applicable
6 interest rate remains constant, and

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

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

11 d. Annuity Starting Date in Plan Years Beginning in 2004
12 or 2005.

13 (1) If the annuity starting date of the member's form
14 of benefit is in a plan year beginning in 2004 or
15 2005, the actuarially equivalent straight life
16 annuity is equal to the annual amount of the
17 straight life annuity commencing at the same
18 annuity starting date that has the same actuarial
19 present value as the member's form of benefit,
20 computed using whichever of the following
21 produces the greater annual amount:

22 (a) the interest rate and the mortality table or
23 other tabular factor, each as set forth in
24 subsection H of Section 49-100.9 of this

1 title for adjusting benefits in the same
2 form, and

3 (b) a five and one-half percent (5.5%) interest
4 rate assumption and the applicable mortality
5 table described in Revenue Ruling 2001-62
6 (or its successor for these purposes, if
7 applicable).

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

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

1 subsection H of Section 49-100.9 of this
2 title for adjusting benefits in the same
3 form,

- 4 (b) i. the rate of interest on thirty-year
5 Treasury securities as specified by the
6 Commissioner for the lookback month for
7 the stability period specified below.
8 The lookback month applicable to the
9 stability period is the fourth calendar
10 month preceding the first day of the
11 stability period, as specified below.
12 The stability period is the successive
13 period of one (1) plan year which
14 contains the annuity starting date for
15 the distribution and for which the
16 applicable interest rate remains
17 constant, and

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

- 22 (c) i. the rate of interest on thirty-year
23 Treasury securities as specified by the
24 Commissioner for the lookback month for

1 the stability period specified below.

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

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

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

20 C. If a member has less than ten (10) years of participation in
21 the System and all predecessor municipal firefighter pension and
22 retirement systems, the dollar limitation otherwise applicable under
23 subsection B of this section shall be multiplied by a fraction, the
24 numerator of which is the number of the years of participation, or

1 part thereof, in the System of the member, but never less than one
2 (1), and the denominator of which is ten (10).

3 D. Adjustment of Dollar Limitation for Benefit Commencement

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

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

- 19 a. Limitation Years Beginning Before July 1, 2007. If
20 the annuity starting date for the member's benefit is
21 prior to sixty-two (62) years of age and occurs in a
22 limitation year beginning before July 1, 2007, the
23 dollar limitation for the member's annuity starting
24 date is the annual amount of a benefit payable in the

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

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

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

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

- 22 (a) If the annuity starting date for the
23 member's benefit is prior to sixty-two (62)
24 years of age and occurs in the limitation

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

(b) If the annuity starting date for the member's benefit is prior to sixty-two (62) years of age and occurs in a limitation year beginning on or after January 1, 2009, and the System does not have an immediately commencing straight life annuity payable at both sixty-two (62) years of age and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table within the meaning of Section 417(e) (3) (B) of the Internal Revenue Code of 1986, as amended, as described in Revenue Ruling 2007-67 (and subsequent guidance)

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

- (2) System Has Immediately Commencing Straight Life Annuity Payable at Both Sixty-two (62) Years of Age and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to sixty-two (62) years of age and occurs in a limitation year beginning on or after July 1, 2007, and the System has an immediately commencing straight life annuity payable at both sixty-two (62) years of age and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the lesser of the limitation determined under division (1) of this subparagraph 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

1 at sixty-two (62) years of age, both determined
2 without applying the limitations of this section.

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

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

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

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

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

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

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

14 (a) If the annuity starting date for the
15 member's benefit is after sixty-five (65)
16 years of age and occurs in the limitation
17 year beginning on January 1, 2008, and the
18 System does not have an immediately
19 commencing straight life annuity payable at
20 both sixty-five (65) years of age and the
21 age of benefit commencement, the dollar
22 limitation at the member's annuity starting
23 date is the annual amount of a benefit
24 payable in the form of a straight life

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

16 (b) If the annuity starting date for the
17 member's benefit is after sixty-five (65)
18 years of age and occurs in a limitation year
19 beginning on or after January 1, 2009, and
20 the System does not have an immediately
21 commencing straight life annuity payable at
22 both sixty-five (65) years of age and the
23 age of benefit commencement, the dollar
24 limitation at the member's annuity starting

1 date is the annual amount of a benefit
2 payable in the form of a straight life
3 annuity commencing at the member's annuity
4 starting date that is the actuarial
5 equivalent of the dollar limitation under
6 subsection B of this section (adjusted under
7 subsection C of this section for years of
8 participation less than ten (10), if
9 required) with actuarial equivalence
10 computed using a five percent (5%) interest
11 rate assumption and the applicable mortality
12 table within the meaning of Section
13 417(e)(3)(B) of the Internal Revenue Code of
14 1986, as amended, as described in Revenue
15 Ruling 2007-67 (and subsequent guidance)
16 (and expressing the member's age based on
17 completed calendar months as of the annuity
18 starting date).

- 19 (2) System Has Immediately Commencing Straight Life
20 Annuity Payable at Both Sixty-five (65) Years of
21 Age and Age of Benefit Commencement. If the
22 annuity starting date for the member's benefit is
23 after sixty-five (65) years of age and occurs in
24 a limitation year beginning on or after July 1,

2007, and the System has an immediately commencing straight life annuity payable at both sixty-five (65) years of age and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the lesser of the limitation determined under division (1) of this subparagraph 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

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

9 3. Notwithstanding the other requirements of this subsection,
10 in adjusting the dollar limitation for the member's annuity starting
11 date under subparagraph a of paragraph 1 of this subsection,
12 division (1) of subparagraph b of paragraph 1 of this subsection,
13 subparagraph a of paragraph 2 of this subsection, or division (1) of
14 subparagraph b of paragraph 2 of this subsection, no adjustment
15 shall be made to reflect the probability of a member's death between
16 the annuity starting date and sixty-two (62) years of age, or
17 between sixty-five (65) years of age and the annuity starting date,
18 as applicable, if benefits are not forfeited upon the death of the
19 member prior to the annuity starting date. To the extent benefits
20 are forfeited upon death before the annuity starting date, such an
21 adjustment shall be made. For this purpose, no forfeiture shall be
22 treated as occurring upon the member's death if the System does not
23 charge members for providing a qualified preretirement survivor
24

1 annuity, as defined in Section 417(c) of the Internal Revenue Code
2 of 1986, as amended, upon the member's death.

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

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

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

- 19 a. the numerator of which is the member's number of
20 credited years (or part thereof, but not less than one
21 (1) year) of service (not to exceed ten (10) years)
22 with the participating municipality, and
23 b. the denominator of which is ten (10); and
24

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

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

20 G. For limitation years beginning on or after January 1, 1995,
21 subsection C of this section, paragraph 1 of subsection D of this
22 section, and the proration provided under subparagraphs a and b of
23 paragraph 1 of subsection E of this section, shall not apply to a
24 benefit paid under the System as a result of the member becoming

1 disabled by reason of personal injuries or sickness, or amounts
2 received by the beneficiaries, survivors or estate of the member as
3 a result of the death of the member.

4 H. If a member purchases service credit under the System, which
5 qualifies as "permissive service credit" pursuant to Section 415(n)
6 of the Internal Revenue Code of 1986, as amended, the limitations of
7 Section 415 of the Internal Revenue Code of 1986, as amended, may be
8 met by either:

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

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

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

21 J. For distributions made in limitation years beginning on or
22 after January 1, 2000, the combined limit of repealed Section 415(e)
23 of the Internal Revenue Code of 1986, as amended, shall not apply.
24

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

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

10 M. All benefits payable from the Oklahoma Firefighters Pension
11 and Retirement System including payments from the deferred option
12 plan under Section 49-106.1 of this title shall be paid from the
13 general assets of the Fund pursuant to subsection B of Section 49-
14 100.11 of this title.

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

18 Section 49-113.2 A. Upon the death of an active or retired
19 member, the System shall pay to the surviving spouse of the member
20 if the surviving spouse has been married to the firefighter for
21 thirty (30) continuous months preceding the member's death provided
22 a surviving spouse of a member who died while in, or as a
23 consequence of, the performance of the member's duty for a
24 participating municipality shall not be subject to the marriage

1 limitation for survivor benefits, or if there is no surviving spouse
2 or no surviving spouse meeting the requirements of this section, the
3 System shall pay to the designated recipient or recipients of the
4 member, or if there is no designated recipient or if the designated
5 recipient predeceases the member, to the estate of the member, the
6 sum of Four Thousand Dollars (\$4,000.00) for those active or retired
7 members who died prior to July 1, 1999. For those active or retired
8 members who die on or after July 1, 1999, the sum shall be Five
9 Thousand Dollars (\$5,000.00).

10 B. Upon the death of a member who dies leaving no living
11 designated recipient or having designated the member's estate as
12 recipient, the System may pay any applicable death benefit which may
13 be subject to probate, in an amount of Five Thousand Dollars
14 (\$5,000.00), to the heir or heirs of the member without the
15 intervention of a probate court or probate procedures.

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

- 20 1. The member's last will and testament if available;
- 21 2. An affidavit or affidavits of heirship which must contain:
 - 22 a. the names and signatures of all claiming heirs to the
 - 23 deceased member's estate including the claiming heirs'
 - 24

1 names, relationship to the deceased member, current
2 addresses and current telephone numbers,

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

7 c. a statement that the value of the deceased member's
8 entire probate estate, less liens and encumbrances,
9 does not exceed ~~Ten Thousand Dollars (\$10,000.00)~~ the
10 dollar limit stated in Section 393 of Title 58 of the
11 Oklahoma Statutes (Fifty Thousand Dollars (\$50,000.00)
12 in 2018), including the payment of benefits from the
13 System, and

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

21 3. A written agreement or agreements signed by all claiming
22 heirs of the deceased member which provides that the claiming heirs
23 release, discharge and hold harmless the System from any and all
24

1 liability, obligations and costs which it may incur as a result of
2 making a payment to any of the deceased member's heirs;

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

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

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

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

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

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

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

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

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

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

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

11
12 57-1-5250 MAH 12/13/18
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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