

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)
3RD CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1618

By: Roberts of the House

and

Weedn of the Senate

3RD CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Firefighters Pension and Retirement System; amending 11 O.S. 1991, Section 49-106.1, which relates to the Oklahoma Firefighters Deferred Option Plan; clarifying procedure for payments to beneficiaries; amending 11 O.S. 1991, Section 49-110, which relates to disability retirement; modifying procedure for application for and determination of disability retirement; making the retirement file of members confidential; providing exception; amending 11 O.S. 1991, Section 49-124, which relates to fire department reports to the State Board; modifying procedure and requirements for certain reports; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 49-106.1, is amended to read as follows:

Section 49-106.1 A. In lieu of terminating employment and accepting a service retirement pension pursuant to Section 49-106 of this title, any member of the Oklahoma Firefighters Pension and Retirement System who has not less than twenty (20) years of creditable service and who is eligible to receive a service retirement pension may elect to participate in the Oklahoma Firefighters Deferred Option Plan and defer the receipts of benefits in accordance with the provisions of this section.

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

C. The duration of participation in the Oklahoma Firefighters Deferred Option Plan for active fire fighters shall not exceed five (5) years. At the conclusion of a member's participation in the Oklahoma Firefighters Deferred Option Plan, the member shall terminate employment with all participating municipalities as a fire fighter, and shall start receiving the member's accrued monthly retirement benefit from the System.

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

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

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

F. A participant in the plan shall receive at the option of the participant, a lump sum payment from the account equal to the payments to the account, or ~~a true~~ an annuity based upon the account of the participant or may elect any other method of payment if approved by the Board of Trustees.

G. If the participant dies ~~during the period of participation~~ while participating in the plan and there is no beneficiary, a lump sum payment equal to the account balance of the participant

shall be paid in accordance with Section 49-113.2 of this title to the participant's estate. If there is a beneficiary, the beneficiary shall receive a benefit pursuant to subsection F of this section.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 49-110, is amended to read as follows:

Section 49-110. No fire fighter shall be retired, as provided in Section 49-109 of this title, or receive any pension from the System, unless there shall be filed with the State Board certificates of the fire fighter's disability, ~~which certificates shall be subscribed and sworn to by the fire fighter and by the State Board's physician and the State Board may require other evidence of disability before ordering such retirement and payment as aforesaid.~~ Any member of the fire department of any municipality who is disabled as a result of heart disease, injury to the respiratory system or the existence of any cancer which heart disease, injury to the respiratory system or cancer was not revealed by the physical examination passed by the member upon entry into the department, shall be presumed to have incurred the heart disease, injury to the respiratory system or cancer while performing the fire fighter's duties as a member of such department unless the contrary is shown by competent evidence. ~~Any such member who applies for disability benefits as a result of heart disease, injury to the respiratory system or the existence of any cancer not revealed by the physical examination passed by the member upon entry into the department shall be examined by three physicians; one of whom shall be designated by the municipality; another of whom shall be designated by the State Board and the third shall be selected by the other two previously designated physicians. Each examining physician shall submit a written report of his findings to the State Board. Furthermore,~~ if ~~if~~ If any such member fails to submit evidence of a physical examination prior to entry into the fire department, there shall be no presumption the heart disease, injury to the respiratory system or cancer was incurred while performing the fire fighter's official duties and it shall be the duty of the State Board to

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determine if the heart disease, injury to the respiratory system or cancer was incurred while performing the member's official duties. Whenever a participating municipality on behalf of a member or a member applies for a disability benefit, the application shall be accompanied by proof of injury unless otherwise provided and medical evidence supporting the existence of a disability, certified by the member's or municipality's physician, that the member is unable to perform the duties of a fire fighter. Should the application be made by a municipality, the member may submit medical evidence or reports from the member's physician to the local board. If both the municipality's physician and the member's physician certify to the disability, the local board shall act upon the application. In regards to applications made by either an individual member or a municipality, should the physicians disagree, or there is only one physician statement, the local board shall be required to have all the medical records concerning the applicant's disability reviewed by a physician selected by the local board and, if required by the reviewing physician, the local board shall have the member examined. The local board shall act upon all the physician's statements. Local board physician examinations and certifications shall be paid by the State Board and shall be limited to only those conditions upon which the member or the municipality on behalf of the member is requesting a disability. If the State Board deems appropriate, an independent physician may be selected by the State Board to review medical records and examine the member. The physicians selected by the State Board shall submit a report and recommendation to the State Board. The local board may request assistance from the State Board in selecting a physician. Final determination on all disability applications shall rest solely with the State Board.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 49-122.6 of Title 11, unless there is created a duplication in numbering, reads as follows:

All information, documents and copies thereof contained in a member's retirement file shall be given confidential treatment and

shall not be made public by the Oklahoma Firefighters Pension and Retirement System without the prior written consent of the member to which it pertains, but shall be subject to subpoena or court order.

SECTION 4. AMENDATORY 11 O.S. 1991, Section 49-124, is amended to read as follows:

Section 49-124. ~~It~~ On forms supplied by the State Board, it is hereby made the duty of the clerk of each participating municipality or fire protection district in ~~the state, in~~ which an organized department is maintained having fire fighting apparatus of the value of One Thousand Dollars (\$1,000.00) or more, to record annually with the State Board ~~on December 31 of each year on the Fire Department Report~~ the name of such fire department, ~~the number of pieces of fire apparatus, the number of fire stations and organized companies and the system of water supply in use in such department;~~ and the number of fire fighters, ~~having served that calendar year,~~ with their names, birthdate, date of appointment and date of expiration of term of service.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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