

ENGROSSED HOUSE
BILL NO. 2677

By: Ostrander

(Oklahoma Firefighters Pension and Retirement System -
amending 11 O.S., Section 49-100.1 - transfer of certain
members - codification - effective date - emergency)

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 49-100.1, as
last amended by Section 1, Chapter 208, O.S.L. 1996 (11 O.S. Supp.
1997, Section 49-100.1), is amended to read as follows:

Section 49-100.1 As used in this article:

1. "System" means the Oklahoma Firefighters Pension and Retirement System and all predecessor municipal firefighters pension and retirement systems;
2. "Article" means Article 49 of this title;
3. "State Board" means the Oklahoma Firefighters Pension and Retirement Board;
4. "Local board" means the local firefighters pension and retirement boards;
5. "Fund" means the Oklahoma Firefighters Pension and Retirement Fund;
6. "Member" means all eligible firefighters of a participating municipality or a fire protection district who perform the essential functions of fire suppression, prevention, and life safety duties in

a fire department, and the firefighters of the Oklahoma Military Department who, pursuant to the provisions of Section 2 of this act, elect to become members of the System and the firefighters of the Oklahoma Military Department who enter active service in that capacity on or after July 1, 1998;

7. "Normal retirement date" means the date at which the member is eligible to receive the unreduced payments of the member's accrued retirement benefit. Such date shall be the first day following the date the member completes twenty (20) years of credited service. If the member's employment continues past the normal retirement date of the member, the actual retirement date of the member shall be the first day following the date the member terminates employment with more than twenty (20) years of credited service;

8. "Credited service" means the period of service used to determine the eligibility for and the amount of benefits payable to a member. Credited service shall consist of the period during which the member participated in the System or the predecessor municipal systems as an active employee in an eligible membership classification, plus any service prior to the establishment of the predecessor municipal systems which was credited under the predecessor municipal systems and for all firefighters of the Oklahoma Military Department who elect to become members of the System effective November 1, 1998, any service transferred pursuant to Section 2 of this act; provided however, "credited service" for members from a fire protection district shall not begin accruing before July 1, 1982;

9. "Participating municipality" means a municipality or fire protection district which is making contributions to the System on behalf of its firefighters;

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

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

12. "Eligible employer" means any municipality with a municipal fire department or a fire protection district with an organized fire department;

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

14. "Final average salary" means the average paid gross salary of the firefighter for normally scheduled hours over the highest salaried thirty (30) consecutive months of the last sixty (60) months of credited service. Gross salary shall not include payment for accumulated sick or annual leave upon termination of employment, any uniform allowances or any other compensation for reimbursement of out-of-pocket expenses. Only salary on which the required contributions have been made may be used in computing the final average salary. Gross salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986 and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986. Only salary on which required contributions have been made may be used in computing final average salary;

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

16. "Beneficiary" means a member's surviving spouse or any surviving children, including biological and adopted children, at the time of the member's death. The surviving spouse must have been married to the firefighter for the thirty (30) continuous months preceding the firefighter's death provided a surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for a participating municipality, shall not be subject to the marriage limitation for survivor benefits. A surviving child of a member shall be a beneficiary until reaching eighteen (18) years of age or twenty-two (22) years of age if the child is enrolled full time and regularly attending a public or private school or any institution of higher education. Any child adopted by a member after the member's retirement shall be a beneficiary only if the child is adopted by the member for the thirty (30) continuous months preceding the member's death. Any child who is adopted by a member after the member's retirement and such member dies accidentally or as a consequence of the performance of the member's duty as a firefighter shall not be subject to the thirty-month adoption requirement. This definition of beneficiary shall be in addition to any other requirement set forth in this article;

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

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 49-100.1A of Title 11, unless there is created a duplication in numbering, reads as follows:

Any firefighter of the Oklahoma Military Department who is employed in such a position prior to July 1, 1998, and who elects on or before November 1, 1998, to participate in the Oklahoma Firefighters Pension and Retirement System is hereby transferred from the Oklahoma Public Employees Retirement System to the Oklahoma Firefighters Pension and Retirement System subject to the following:

1. Effective July 1, 1998, firefighters of the Oklahoma Military Department who are members of the Oklahoma Public Employees Retirement System and who elect on or before November 1, 1998, to participate in the Oklahoma Firefighters Pension and Retirement System shall cease accruing benefits in the Oklahoma Public Employees Retirement System and shall commence accruing benefits in the Oklahoma Firefighters Pension and Retirement System;

2. Before January 1, 1999, the Oklahoma Public Employees Retirement System shall transfer to the Oklahoma Firefighters Pension and Retirement System the actual amount contributed to the Oklahoma Public Employees Retirement System by a firefighter of the Oklahoma Military Department while he or she was a member of the Oklahoma Public Employees Retirement System and the contributions by the participating employer or employers on behalf of each firefighter who elects to become a member of the Oklahoma Firefighters Pension and Retirement System along with the retirement records of said transferring firefighter;

3. To receive service credit accrued by such firefighter prior to July 1, 1998, or prior to the date as of which the person making the election ceases to be a member of the Oklahoma Public Employees

Retirement System, whichever date occurs last, the member shall pay the difference between the amount transferred by the Oklahoma Public Employees Retirement System to the Oklahoma Firefighters Pension and Retirement System in paragraph 2 of this subsection and the amount determined by the State Board pursuant to Section 49-117.3 of Title 11 of the Oklahoma Statutes. The firefighter shall elect to either pay any difference to receive full credit for the years sought to be transferred or receive prorated service credit for only the amount received from the Oklahoma Public Employees Retirement System pursuant to this section. Such an election shall be made in writing, filed with the System prior to receiving the credit provided for in paragraph 8 of Section 49-100.1 of Title 11 of the Oklahoma Statutes, and shall be irrevocable. Payments made by firefighters pursuant to this paragraph shall be made on or before January 1, 1999;

4. Service credit accrued by a firefighter while a member of the Oklahoma Public Employees Retirement System shall be treated as credited service for such transferring firefighters in the Oklahoma Firefighters Pension and Retirement System if the firefighter is not receiving or eligible to receive service credit or benefits from said service in any other public retirement system. Provided, however, that the total of credited service for each transferring employee shall not exceed the credited service the employee could have accrued if his or her entire employment with an agency of the State of Oklahoma had been as an employee of the Oklahoma Military Department. Provided further, that only transferred credited service related to firefighters service with the Oklahoma Military Department will be included in the determination of a firefighter's normal retirement date or vesting date; and

5. All service credit with the Oklahoma Public Employees Retirement System which is ineligible for transfer to the Oklahoma Firefighters Pension and Retirement System shall be canceled.

SECTION 3. This act shall become effective July 1, 1998.

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

Passed the House of Representatives the 11th day of March, 1998.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1998.

President of the Senate