

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 1480

By: Morgan

AS INTRODUCED

An Act relating to retirement; providing purchase of service credit upon entering Oklahoma Firefighters Pension and Retirement System; providing verification of certain service; providing for payment of contributions for certain volunteer firefighters; providing time limits for receipt of payment; providing for payment by individual; providing expiration; limiting eligibility; providing certain volunteers be considered paid firefighters; requiring meeting certain physical and agility requirements to continue as an active member; amending 11 O.S. 1991, Sections 49-108, as amended by Section 1, Chapter 203, O.S.L. 1992, 49-116, as amended by Section 3, Chapter 390, O.S.L. 1992, and 49-138, as last amended by Section 7, Chapter 193, O.S.L. 1999 (11 O.S. Supp. 1999, Sections 49-108, 49-116, and 49-138), which relate to the Oklahoma Firefighters Pension and Retirement System; providing limits for determination of retirement benefits for paid and volunteer firefighters; providing which years of service are used in determining benefits; deleting reference to candidates; providing time frame for taking physical performance and agility tests when applying for membership; requiring physical examination upon entering employment as a paid firefighter regardless if the individual is already a member of the System; providing time frame for taking physical examination when applying for membership; providing exception to taking physical examination for certain reemployed paid firefighters; clarifying that military service is used in computing benefits at time member elects to join the Oklahoma Firefighters Deferred Option Plan; changing reference to subsection; limiting military credit for certain service; providing exception; requiring members or beneficiaries to make application for wartime military service credit; providing limitations on interest on additional benefits related to wartime military service; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 49-101.2 of Title 11, unless there is created a duplication in numbering, reads as follows:

An eligible employer joining the System may purchase up to five (5) years of credited service for each volunteer member of a volunteer fire department at the annual contribution rate in effect as of the date of the purchase, provided verifiable evidence of active firefighter service for the purchased years for each individual is provided to the System. Even though the participating municipality is exempt from contributions, contributions must be paid for a volunteer firefighter to receive purchased credited service. Payment for purchased credited service must be received by the System within six (6) months of the date the eligible employer becomes a participating municipality, and may be paid by the individual member. Six (6) months from the date the eligible employer becomes a participating municipality, any eligible prior credited service not purchased shall expire and not be available for determining benefits. Eligibility to receive purchased credited service shall be limited to those members of the new volunteer fire department enrolled at the time the eligible employer applies for affiliation with the System pursuant to Section 49-105.2 of Title 11 of the Oklahoma Statutes.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 49-101.3 of Title 11, unless there is created a duplication in numbering, reads as follows:

Any member serving as an active volunteer firefighter who receives annual compensation from a participating municipality other than reimbursement of expenses in excess of two (2) times the annual pension benefit paid by the System to a retired volunteer firefighter with twenty (20) years credited service shall be considered a paid firefighter and must meet the physical and agility requirements pursuant to Section 49-116 of Title 11 of the Oklahoma Statutes to continue as an active member of the System.

SECTION 3. AMENDATORY 11 O.S. 1991, Section 49-108, as amended by Section 1, Chapter 203, O.S.L. 1992 (11 O.S. Supp. 1999, Section 49-108), is amended to read as follows:

Section 49-108. A. Any volunteer fire fighter who is appointed as a paid fire fighter and serves less than ten (10) years as a paid fire fighter, shall be entitled to receive one-twentieth (1/20) of a volunteer pension for each full year served as a volunteer fire fighter and one-twentieth of one-half (1/20 of 1/2) of the average salary received for each full year the fire fighter served as a paid fire fighter.

B. Any volunteer fire fighter who is appointed as a paid fire fighter after the effective date of this act and serves ten (10) or more years as a paid fire fighter, shall be entitled to credit no more than five (5) years of volunteer time to complete a twenty-year paid service pension with remaining volunteer time computed at one-twentieth (1/20) of a volunteer pension for each additional volunteer year. Any volunteer fire fighter who is appointed as a paid fire fighter before the effective date of this act and serves ten (10) or more years as a paid fire fighter, shall be entitled to credit all of the fire fighter's volunteer time to complete a twenty-year paid service pension.

C. For purposes of determining benefits pursuant to this section, total credited service for paid and volunteer service shall not exceed thirty (30) years; provided, the most recent years of service shall be used in determining total credited service for paid and volunteer service.

D. Nothing contained in this section shall be construed to create an eligibility for pension which is not otherwise provided by law.

SECTION 4. AMENDATORY 11 O.S. 1991, Section 49-116, as amended by Section 3, Chapter 390, O.S.L. 1992 (11 O.S. Supp. 1999, Section 49-116), is amended to read as follows:

Section 49-116. A. All persons ~~(candidates)~~ being considered for a position of a paid fire fighter shall pass the required pre-employment offer physical performance/agility test based on standards established by the State Board; provided that the time between the administration of the physical performance/agility test and application for membership in the System is less than twelve (12) months.

B. The State Board shall require that any person ~~who is not presently a member of the System and~~ who has been offered a position of a paid fire fighter and before entering the employment of a municipality as a paid fire fighter, must successfully complete a physical examination, as promulgated by the rules of the State Board, in order to participate and qualify to receive any benefits from the System; provided that the time between the administration of the physical examination and application for membership in the System is less than six (6) months. All candidates shall be of good moral character, free from deformities, mental or physical conditions, disease and alcohol or drug addiction, which would prohibit a candidate from performing duties as a fire fighter. The State Board shall have the final determination upon all applications for membership in the System. This subsection shall not apply to any person who terminates employment with a participating municipality as a paid firefighter and is reemployed by the participating municipality or employed by another participating municipality within six (6) months of such termination, unless such person was terminated for medical reasons.

C. Any person retired for disability under this article may be summoned before the State Board herein provided for, any time hereafter, and shall submit himself thereto for examination as to his fitness for duty, and shall abide the decision and order of the State Board with reference thereto; and all members of the fire department, who may be retired under the provisions of this article,

shall report to some physician designated by the State Board when so retired, as required by the State Board.

SECTION 5. AMENDATORY 11 O.S. 1991, Section 49-138, as last amended by Section 7, Chapter 193, O.S.L. 1999 (11 O.S. Supp. 1999, Section 49-138), is amended to read as follows:

Section 49-138. Any member of a regularly constituted fire department of any municipality who is now serving or may hereafter serve in the land or naval forces of the United States under the Act of Congress of September 16, 1940 (50 U.S.C.A. Sections 301-318), known as the Selective Training and Service Act of 1940, and/or Public Law No. 759, 80th Congress, known as the Selective Service Act of 1948, and amendments thereto, whether such service is voluntary or involuntary, who shall have been a member of such fire department at the time of entering such service, shall be entitled to have the whole of the time of such service applied under the provisions of Section 49-106 of this title, so far as the same applies to a service pension; provided further, that the municipality shall continue its payment into said pension fund, to the same force and effect as though the member were in the actual service of such fire department; provided, that any person who is eligible for such service under said Acts of Congress but who shall have volunteered for military or naval service for a greater period than is provided by said Acts shall likewise be entitled to all of the benefits of Sections 49-138 through 49-142 of this title for the full period of such service or enlistment; provided further, that only one such period of voluntary service shall be considered hereunder. If such person shall reenlist, unless he is required to do so by law, he shall not thereafter be entitled to the provisions of this act. The provisions of this act shall not apply where any such person dies during the period of said service or enlistment, and shall not entitle the surviving spouse or children to any benefits.

B. Effective February 1, 1997, credited service received pursuant to this section or credited service for wartime military service received as otherwise provided by law shall be used in determining the member's retirement benefit but shall not be used in determining years of service for retirement, vesting purposes or eligibility for participation in the Oklahoma Firefighters Deferred Option Plan.

C. A member who retires or elects to participate in the Oklahoma Firefighters Deferred Option Plan on or after July 1, 1998, shall receive maximum benefits available for each year of creditable service, not to exceed five (5) years, for active military service for retirement benefits for service rendered prior to being hired by a regularly constituted fire department.

For purposes of this subsection, "military service" means service in the Armed Forces of the United States in time of war or national emergency by honorably discharged persons who served as follows:

1. In the Armed Forces of the United States at any time during the period from April 6, 1917, to November 11, 1918, both dates inclusive;

2. In the Armed Forces of the United States as members of the 45th Division at any time during the period from September 16, 1940, to December 7, 1941, both dates inclusive;

3. In the Armed Forces of the United States at any time during the period from December 7, 1941, to December 31, 1946, both dates inclusive;

4. In the Armed Forces of the United States at any time during the period from June 27, 1950, to January 31, 1955, both dates inclusive;

5. For a period of ninety (90) days or more, unless discharged from active duty for a service-connected disability, in the Armed Forces of the United States during the period of time in which the

United States participated in a war, campaign or battle, but excluding any person who shall have served on active duty for training only, unless discharged from active duty for service-connected disability;

6. In the Armed Forces of the United States at any time during the period which began on:

- a. February 28, 1961, and ended on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period, and
- b. August 5, 1964, and ended on May 7, 1975, in all other cases,

except that such period shall be deemed to have ended on December 31, 1976, when determining eligibility for education and training benefits; or

7. In the Armed Forces of the United States on or after August 1, 1990, and ended on December 31, 1991, excluding any person who shall have served on active duty for training only, unless discharged from active duty for service-connected disability.

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

purposes only unless discharged from active duty for a service connected disability.

E. Notwithstanding any provision herein to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986.

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

SECTION 6. This act shall become effective July 1, 2000.

SECTION 7. 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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