

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

2ND CONFERENCE COMMITTEE  
SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 2372

By: Hutchison, Adkins and  
Taylor of the House

and

Corn and Rabon of the  
Senate

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to volunteer firefighters; enacting the Oklahoma Volunteer Firefighter Training Incentive Act of 2004; establishing the Oklahoma Council on Firefighter Training; specifying membership of Council; prescribing terms of office for members of Council; providing for appointments to fill vacancies; providing for service at pleasure of appointing authority; prescribing responsibilities of Council; requiring advice to Governor, Speaker of the House of Representatives and President Pro Tempore of the State Senate; requiring annual report; requiring selection of chairperson; prescribing quorum requirements; providing for approval of actions by vote; providing for recommendations regarding replacement of certain Council members; providing for staff assistance to the Council; prescribing requirements for meetings and conduct of meetings; authorizing special meetings; providing for notice of meetings; authorizing income tax credit for certain volunteer firefighters; specifying requirements for training related to credit; prescribing procedures; requiring certain standardized reports; amending 11 O.S. 2001, Section 23-108, which relates to certain municipal benefits; modifying provision related to certain retired employees; providing for codification; providing for noncodification; 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 not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Oklahoma Volunteer Firefighter Training Incentive Act of 2004".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established the Oklahoma Council on Firefighter Training.

B. The Council shall consist of nine (9) members, two of whom shall be ex officio and nonvoting, as follows:

1. One member to be appointed by the Oklahoma State Firefighters Association who shall be a member of an Oklahoma fire department representing all members of paid, volunteer and combination fire departments;

2. One member to be appointed by the Professional Fire Fighters of Oklahoma who shall be a fire union officer, chief officer, or fire service instructor from a full-time paid fire department;

3. One member to be appointed by the Oklahoma Fire Chiefs' Association who shall be a chief officer or fire service instructor from an Oklahoma combination fire department;

4. One member to be appointed by the State Fire Marshal Commission who shall be a representative of the Oklahoma Fire Service with commensurate skills in arson investigation or code enforcement;

5. One member to be appointed by the Oklahoma Rural Fire Coordinators who shall be a chief officer or fire service instructor from a volunteer fire department;

6. One member to be appointed by the Director of the State Department of Health-Emergency Medical Services Division who shall be a chief officer or fire service EMS instructor from an Oklahoma fire department;

7. One member to be appointed by the Director of the Oklahoma Department of Homeland Security who shall be a municipal emergency management official;

8. The Director of Fire Service Training, Oklahoma State University, ex officio and nonvoting; and

9. The Director of Fire Service Publications, Oklahoma State University, ex officio and nonvoting.

C. The initial term of office for the members of the Council shall be:

1. Three (3) years for persons appointed pursuant to paragraphs 1 through 3 of subsection B of this section;

2. Two (2) years for persons appointed pursuant to paragraphs 4 and 5 of subsection B of this section; and

3. One (1) year for persons appointed pursuant to paragraphs 6 and 7 of subsection B of this section.

D. After the expiration of the initial terms of office prescribed by subsection C of this section, the term of office for each member of the Council shall be for a period of three (3) years.

E. Each member of the Council shall serve at the pleasure of the appointing authority.

F. Appointments made to fill a vacancy in any position shall be for the period of time remaining for such appointed position and shall be made in the same manner as for the original appointment. Any vacancy in the Council shall be filled in the same manner as provided for in the original appointment.

G. The Council shall be responsible for:

1. Identifying firefighter training needs and setting the firefighter training goals for the State of Oklahoma;

2. Interacting with the Homeland Security Department's Preparedness and Awareness Division on firefighter training and grants; and

3. Administering and maintaining the incentive and recognition programs established for Oklahoma firefighters.

H. The Council shall advise the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the State Senate and the Oklahoma State Fire Service on fire and emergency service training needs for the state. The Council shall submit an annual report or recommendations regarding fire and emergency service training needs to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the State Senate not later than December 31 each year.

I. After the initial appointments to the Council have been made and at the beginning of each fiscal year thereafter, the Council shall select from among its membership a chairperson.

J. At least four members of the Council must be present to constitute a quorum at the meetings of the Council. A simple majority of the members in attendance and voting shall constitute passage of any vote.

K. The chair of the Council shall recommend to the appointing authority the replacement of any Council member who misses more than two consecutive regular meetings or who attends less than fifty percent (50%) of the Council's regularly scheduled meetings in a twelve-month period without an excused absence.

L. The staff of the Oklahoma State Firefighters Association shall provide the Council with administrative, professional and clerical services as funding permits. Functions of the Council that may be paid for from other sources shall be paid using such other sources as may be authorized by law.

M. The Council shall conduct four meetings annually. Meetings of the Council shall be held at a location and time to be determined by the chair. The chair shall have the discretion to cancel or reschedule any regular meeting by written notice within a reasonable time prior to the meeting. Council members shall be notified of the

time and place of all such meetings at least seven (7) days prior to the meeting date.

N. Special meetings of the Council may be called at the discretion of the chair or by a written request of at least three members of the Council. An agenda, together with a written notice of the time and place of any such meeting must be provided to the Council members at least seven (7) days in advance. Only matters contained in the agenda shall be voted at any special meeting. The chair shall have the discretion to cancel any special meeting; provided, that such meetings called by the members of the Council are canceled only with their consent.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2358.7 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For taxable years beginning after December 31, 2004, there shall be allowed as a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes in an amount equal to:

1. Two Hundred Dollars (\$200.00) each year for which a volunteer firefighter provides proof of certification as required by subsection B of this section; and

2. Four Hundred Dollars (\$400.00) each year following the taxable years for which a taxpayer is eligible for the credit provided by paragraph 1 of this subsection for a volunteer firefighter providing proof of certification as required by subsection D of this section.

B. In order to claim the tax credit authorized by paragraph 1 of subsection A of this section, a volunteer firefighter shall be required to provide adequate documentation to the Oklahoma Tax Commission of at least twelve (12) credited hours toward the Volunteer Firefighter Practices program offered by Oklahoma State University Fire Service Training prior to or during the first

taxable year for which a tax credit is claimed pursuant to paragraph 1 of subsection A of this section.

C. For each year subsequent to the first year for which a volunteer firefighter may claim the tax credit authorized by paragraph 1 of subsection A of this section, in order to claim any further tax credits pursuant to paragraph 1 of subsection A of this section, the volunteer firefighter shall be required to provide documentation that the firefighter has completed an additional six (6) hours of Fire Service Training Volunteer Firefighter Practices program until such program or its equivalent is completed. For purposes of this subsection, equivalency shall be determined by Oklahoma State University Fire Service Training. For purposes of this subsection, Firefighter I, Firefighter II or Firefighter III certifications or their equivalents may be provided in lieu of the Volunteer Firefighter Practices certification.

D. After having completed at least thirty (30) hours of instruction and having completed the Volunteer Firefighter Practices program, in order to be eligible for the tax credit authorized by paragraph 2 of subsection A of this section, the volunteer firefighter shall:

1. Attend and receive certification for annual chemical, biological, radiological and nuclear (CBRN) response training and weapons of mass destruction (WMD) training of at least one (1) hour per subject, respectively;

2. Complete at least six (6) hours of continuing education each year until the volunteer firefighter completes a certification as Firefighter I or its equivalent. For purposes of this paragraph, equivalency shall be determined by Oklahoma State University Fire Service Training;

3. Provide documentation from the fire chief of the applicable department that the firefighter has been provided and participated in all annual training as required by federal and state authorities

including, but not limited to, annual fit testing for breathing apparatus, "right-to-know" laws, Homeland Defense, CBRN, WMD or other applicable requirements; and

4. Provide documentation from the fire chief of the applicable department that the volunteer firefighter has met the requirements under the fire department's constitution and bylaws and is a member in good standing of the department together with a record of the total number of years of service in good standing with such department.

E. In order to assist the Oklahoma Tax Commission with the administration of the tax credits authorized by this section, the Oklahoma State University Fire Service Training program shall provide to all fire departments a uniform document that indicates the annual training hours and continuing education training hours completed by each volunteer firefighter through the Fire Service Training program.

F. The Office of the State Fire Marshal shall prescribe a reporting form for use by volunteer fire departments and by volunteer firefighters in order to provide the certifications required by this section.

G. The Oklahoma Tax Commission may require copies of such documentation provided by Oklahoma State University Fire Service Training program or the Office of the State Fire Marshal regarding training history to verify eligibility for the tax credits provided by this section.

SECTION 4. AMENDATORY 11 O.S. 2001, Section 23-108, is amended to read as follows:

Section 23-108. A. A municipality may provide hospital and medical benefits, accident, health, and life insurance, or any of the aforesaid, through any company authorized to do business in Oklahoma, for any or all of its officers or employees and their dependents, whether said officers or employees are engaged in a

governmental or nongovernmental function of the municipality. A municipality may also provide such benefits when an officer or employee is ordered by proper authority to active duty in the National Guard or Reserve Corps of the Armed Forces of the United States. The municipality may pay a portion or all of said premiums from any municipal general funds, and may deduct from the wages or salary of any such officer or employee, upon written authority signed by the officer or employee, amounts for the payment of all or any portion of the monthly premium for same.

B. 1. For the purposes of and as used in this subsection:

- a. "affected municipality" means a municipality that provides hospital and medical benefits, accident and health insurance, or any of the aforesaid, for any or all of its officers or employees and their dependents pursuant to the provisions of subsection A of this section,
- b. "health insurance plan" means the hospital and medical benefits, accident and health insurance, or any of the aforesaid, provided by an affected municipality to its officers or employees pursuant to the provisions of subsection A of this section,
- c. "retired employee" means any officer or employee of an affected municipality who receives a continuing benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System, a municipal retirement system authorized pursuant to the provisions of Section 48-101 et seq. of this title, the Oklahoma Firefighters Pension and Retirement System, or the Oklahoma Police Pension and Retirement System, and who began receiving said benefits immediately after termination of employment, taking into consideration any administrative delays in

establishing said continuing benefits, with an affected municipality, provided that the phrase "retired employee" shall include elected officers that have served eight (8) or more years with an affected municipality and the survivor of said elected officer or officer or employee, and

- d. "survivor" means a survivor of a retired employee who would have been eligible to make the election authorized by this subsection and shall be determined in accordance with the applicable rules of the retirement system from which said retired employee qualified to receive benefits. Provided, "survivor" shall also mean the surviving spouse or the surviving minor child or children of a person who was an employee or elected official of an affected municipality on or after July 1, 1992, and who continuously participated in the hospital and medical benefits insurance plan of said affected municipality at the time of the death of said employee.

2. Notwithstanding any other state or federal law, a retired employee may continue in force the health insurance plan offered by the affected municipality that last employed said retired employee.

3. To participate in the health insurance plan offered by a retired employee's affected municipality, the retired employee shall elect to participate in the health insurance plan within thirty (30) days from the date of termination of employment with said affected municipality.

4. The retired employee who participates in the health insurance plan pursuant to this subsection shall pay up to the full cost of said health insurance plan at the rates and pursuant to the terms and conditions established by the affected municipality, provided the amount of the retired employee's premiums and dependent

premiums for said health insurance plan paid by said retired employee who is under sixty-five (65) years of age shall be no greater than one hundred twenty-five percent (125%) of the amount of the officer or employee premiums and dependent premiums for the health insurance plan paid by or on behalf of an officer or employee who is currently employed by the affected municipality.

5. An affected municipality that offers a health insurance plan in accordance with this section to its officers or employees and dependents shall offer the same health insurance plan to those retired employees and their dependents who elect to continue in force or participate in said health insurance plan in accordance with this subsection unless the retired employee or dependent is over sixty-five (65) years of age and qualifies for Medicare.

6. An affected municipality that provides a health insurance plan to retired employees pursuant to this subsection ~~may~~ shall also ~~provide~~ offer a Medicare supplement plan to those retired employees and their dependents who are over sixty-five (65) years of age.

7. An affected municipality which participates in the plan or plans offered by the State and Education Employees Group Insurance Board shall not be subject to the provisions of this subsection so long as said participation continues.

8. If a retired employee who retires from an affected municipality that participates in a municipal retirement system authorized pursuant to the provisions of Section 48-101 et seq. of this title does not receive a continuing benefit from said municipal retirement system because of a lump sum distribution from said retirement system to said retired employee or because said municipal retirement system is discontinued, said retired employee shall be entitled to make the election authorized pursuant to this subsection if said retired employee was employed by the affected municipality for at least eight (8) years or was disabled due to a line-of-duty

injury while employed by and unable to continue similar employment with said affected municipality.

C. Public and private educational institutions of the state not supported by any state appropriated funds may purchase annuity contracts for any of their full-time officers and employees from any insurance company organized and operated without profit to any private shareholder or individual exclusively for the purpose of aiding and strengthening educational institutions, whether or not such company be authorized to do business in Oklahoma.

SECTION 5. This act shall become effective July 1, 2004.

SECTION 6. 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.

49-2-9304            MAH            05/26/04