

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1828

By: Corn

AS INTRODUCED

An Act relating to retirement; amending 11 O.S. 2001, Sections 49-100.1, as last amended by Section 1, Chapter 128, O.S.L. 2003, 49-100.11, 49-122.1, 49-122.3 and 49-126, as last amended by Section 7, Chapter 546, O.S.L. 2004 (11 O.S. Supp. 2005, Sections 49-100.1 and 49-126), which relate to the Oklahoma Firefighters Pension and Retirement System; modifying definitions; specifying deposit of certain contributions to the Oklahoma Firefighters Retiree Health Care Fund; providing procedures for the payments of benefits from the Oklahoma Firefighters Retiree Health Care Fund; defining terms; requiring certain members to make certain contributions; specifying amount of contribution for certain members; requiring contributions to be credited to certain account; specifying implementation date of the Oklahoma Firefighters Retiree Health Care Fund; requiring the Oklahoma Firefighters Pension and Retirement System to manage the Oklahoma Firefighters Retiree Health Care Fund; specifying procedures relating to the receipt of distributions; allowing the account of a deceased member to be maintained under certain conditions; providing procedures relating to the forfeiture of an account; requiring the State Board to conduct an election to determine participation in the Oklahoma Firefighters Retiree Health Care Fund; requiring participation in the Oklahoma Firefighters Retiree Health Care Fund upon certain vote; specifying condition for the Oklahoma Firefighters Retiree Health Care Fund not to be established; specifying status of benefits provided by the Oklahoma Firefighters Retiree Health Care Fund; providing that such benefits are subject to qualified domestic orders; establishing the Oklahoma Firefighters Retiree Health Care Fund; specifying the treatment of assets of the Oklahoma Firefighters Retiree Health Care Fund; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 49-100.1, as last amended by Section 1, Chapter 128, O.S.L. 2003 (11 O.S. Supp. 2005, 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. The term "member" shall include but not be limited to the person serving as fire chief of any participating municipality, provided that a person serving as fire chief of a participating municipality shall meet the age, agility, physical and other eligibility requirements required by law at the time said person becomes a member of the System. Effective July 1, 1987, a member does not include a "leased employee". The term "leased employee" means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Section 414(n)(6) of the Internal Revenue Code of 1986, as amended) on a substantially full-time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer. A leased employee shall not be considered an employee of the recipient if the

requirements of the safe harbor provisions of Section 414(n)(5) of the Internal Revenue Code of 1986, as amended, are satisfied.

Effective July 1, 1999, any individual who agrees with the participating municipality that the individual's services are to be performed as a leased employee or an independent contractor shall not be a member regardless of any classification as a common law employee by the Internal Revenue Service or any other governmental agency, or any court of competent jurisdiction;

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; 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, county fire department organized pursuant to subsection D of Section 351 of Title 19 of the Oklahoma Statutes, 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. Effective January 1, 1988, gross salary shall include any amount of elective salary reduction under Section 125 of the Internal Revenue Code of 1986, as amended. Gross salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986, as amended, and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986, as amended. Effective July 1, 1998, for purposes of determining a member's compensation, any contribution by the member to reduce his regular cash remuneration under 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be treated as if the member did not make such an election. Only salary on

which required contributions have been made may be used in computing final average salary.

In addition to other applicable limitations, and notwithstanding any other provision to the contrary, for plan years beginning on or after July 1, 2002, the annual gross salary of each "Noneligible Member" taken into account under the System shall not exceed the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") annual salary limit. The EGTRRA annual salary limit is Two Hundred Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The annual salary limit in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which salary is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the EGTRRA salary limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12). For purposes of this subsection, a "Noneligible Member" is any member who first became a member during a plan year commencing on or after July 1, 1996.

For plan years beginning on or after July 1, 2002, any reference to the annual salary limit under Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall mean the EGTRRA salary limit set forth in this subsection;

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; and

19. "Retiree Health Care Fund" means the Oklahoma Firefighters Retiree Health Care Fund.

SECTION 2. AMENDATORY 11 O.S. 2001, Section 49-100.11, is amended to read as follows:

Section 49-100.11 A. All employee and employer contributions, other than those contributions made pursuant to Section 3 of this act, and dedicated revenues shall be deposited in the Oklahoma Firefighters Pension and Retirement Fund in the State Treasury. The State Board shall have the responsibility for the management of the Oklahoma Firefighters Pension and Retirement Fund, and may transfer monies used for investment purposes by the Oklahoma Firefighters Pension and Retirement System from the Oklahoma Firefighters Pension and Retirement Fund in the State Treasury to the custodian bank or trust company of the System.

B. All benefits payable pursuant to the provisions of the Oklahoma Firefighters Pension and Retirement System, refunds of contribution and overpayments, and all administrative expenses in connection with the System, other than those payments made pursuant to Section 3 of this act, shall be paid from the Oklahoma Firefighters Pension and Retirement Fund upon warrants or vouchers signed by two persons designated by the State Board. The State Board may transfer monies from the custodian bank or trust company of the System to the Oklahoma Firefighters Pension and Retirement Fund in the State Treasury for the purposes specified in this subsection.

C. All employee and employer contributions made pursuant to Section 3 of this act and dedicated revenues shall be deposited in the Oklahoma Firefighters Retiree Health Care Fund in the State Treasury. The State Board shall have the responsibility for the management of the Oklahoma Firefighters Retiree Health Care Fund, and may transfer monies used for investment purposes by the Oklahoma Firefighters Pension and Retirement System on behalf of the Oklahoma Firefighters Retiree Health Care Fund from the Oklahoma Firefighters Retiree Health Care Fund in the State Treasury to the custodian bank or trust company of the System.

D. All benefits payable pursuant to the provisions of the Oklahoma Firefighters Retiree Health Care Fund, refunds of mistaken

contributions and overpayments, and all administrative expenses in connection with the Oklahoma Firefighters Retiree Health Care Fund shall be paid from the Oklahoma Firefighters Retiree Health Care Fund upon warrants or vouchers signed by two persons designated by the State Board. The State Board may transfer monies from the custodian bank or trust company of the System to the Oklahoma Firefighters Retiree Health Care Fund in the State Treasury for the purposes specified in this subsection.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 49-117.4 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. The purpose of this section is to create the Oklahoma Firefighters Retiree Health Care Fund to provide retiree health benefits as described in this section to eligible members of the Oklahoma Firefighters Pension and Retirement System. The Oklahoma Firefighters Retiree Health Care Fund is to be administered in accordance with the requirements of Section 401(h) of the Internal Revenue Code of 1986, as amended.

B. For purposes of this section, the following definitions shall apply:

1. "Account" means an account established and maintained for each retiree health participating member, the member's spouse and dependents;

2. "Dependent" means dependent, as defined in Section 152 of the Internal Revenue Code of 1986, as amended;

3. "Distribution" means a payment to a retired member, the member's spouse and dependents for the reimbursement of qualified medical expenses. Distributions shall be made in accordance with the procedures established by the State Board;

4. "Qualified medical expenses" means medical expenses as defined in Section 213(d) of the Internal Revenue Code of 1986, as amended;

5. "Retiree health participating member" means a member who is participating in the Oklahoma Firefighters Retiree Health Care Fund; and

6. "Spouse" means the spouse to whom the retiree health participating member is married at the time of commencement of benefits under this section, or if earlier, the spouse to whom such member is married at the date of such member's death.

C. For a paid retiree health participating member, each participating municipality shall pick up, under the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986, as amended, and pay the contribution which such member is required by law to make to the System, for all compensation earned after the date set by the State Board which shall be no earlier than the later of December 31, 2006, or upon the issuance for the System of a favorable determination letter from the Internal Revenue Service, provided the underlying request addresses Section 401(h) of the Internal Revenue Code of 1986, as amended. Although the contributions so picked up are designated as retiree health participating member contributions, such contributions shall be treated as contributions being paid by such participating municipality in lieu of contributions by such members in determining tax treatment under the Internal Revenue Code of 1986, as amended, and such picked up contributions shall not be includable in the gross income of such members. A paid retiree health participating member shall not have the option to choose to receive the contributions so picked up directly and the picked up contributions shall be made by the participating municipality to the System. The contribution is four percent (4%) of a retiree health participating member's actual paid gross salary for an active paid firefighter.

D. For a volunteer retiree health participating member, the contribution is a flat monthly dollar amount equal to Twenty-five Dollars (\$25.00), Fifty Dollars (\$50.00), Seventy-five Dollars

(\$75.00), or One Hundred Dollars (\$100.00) per month, as determined by each fire department in accordance with the vote as set forth in subsection J of this section.

E. Contributions are credited to an account established for each retiree health participating member. The assets of the Oklahoma Firefighters Retiree Health Care Fund are separately invested from the other assets of the Oklahoma Firefighters Pension and Retirement System and shall not be commingled with the other assets of the System. The retiree health participating member's account shall be credited with investment gains and losses based on actual investment gains and losses less expenses incurred as a result of the administration of the Oklahoma Firefighters Retiree Health Care Fund. Investment gains and losses shall be credited to a retiree health participating member's account on an annual basis.

F. The Oklahoma Firefighters Retiree Health Care Fund shall not be implemented until the date set by the State Board which shall be no earlier than the later of January 1, 2007, or upon issuance for the System of a favorable determination letter from the Internal Revenue Service, provided the underlying request addresses Section 401(h) of the Internal Revenue Code of 1986, as amended. The State Board shall thereafter manage the Oklahoma Firefighters Retiree Health Care Fund. The State Board may retain investment advisers, attorneys, consultants, vendors and any other advisers that the State Board deems necessary to provide advice and to administer the Oklahoma Firefighters Retiree Health Care Fund in accordance with the competitive bid or proposal procedures described in Title 74 of the Oklahoma Statutes. The State Board may incur reasonable investment and administrative expenses payable from the assets of the Oklahoma Firefighters Retiree Health Care Fund.

G. A retiree health participating member shall, upon completion of such administrative forms as the State Board shall prescribe, receive distributions from the member's account upon the

commencement of a monthly pension pursuant to the Oklahoma Firefighters Pension and Retirement System due to the member's:

1. retirement;
2. disability; or
3. attainment of age fifty (50) or the date the member would have had twenty (20) years of credited service had the member's employment continued uninterrupted for a member who terminated service before normal retirement date.

H. A deceased retiree health participating member's account shall be maintained for the benefit of the member's surviving spouse and dependents who shall, upon completion of such administrative forms as the State Board shall prescribe, receive distributions from such account upon the commencement of a monthly pension pursuant to the Oklahoma Firefighters Pension and Retirement System due to the surviving spouse's or beneficiary's entitlement to survivorship benefits.

I. Upon the termination of employment of a retiree health participating member who is not entitled to any monthly pension distribution, the entire interest such member had in the member's account shall be forfeited as of the termination date. At such time as a deceased member does not have a surviving spouse or dependents, the entire remaining interest in the member's account shall be forfeited. If a retiree health participating member's account is forfeited, an amount equal to the amount of the forfeiture shall be reallocated annually to the remaining accounts on a per capita basis, in accordance with the procedures established by the State Board.

J. The State Board shall conduct an election of all eligible active members from each fire department for the purpose of determining whether the eligible members from such fire department shall participate in the Oklahoma Firefighters Retiree Health Care Fund. If a fire department's membership includes both active paid

firefighters and active volunteer firefighters, separate elections for each group shall be conducted.

1. If fifty percent (50%) or more of all eligible active paid members from the fire department vote in favor of participating in the Oklahoma Firefighters Retiree Health Care Fund, all eligible active paid members from such fire department shall be required to participate in the Oklahoma Firefighter Retiree Health Care Fund.

2. If fifty percent (50%) or more of all eligible active volunteer members from a fire department vote in favor of participating in the Oklahoma Firefighters Retiree Health Care Fund, all eligible active volunteer members from such fire department shall be required to participate in the Oklahoma Firefighters Retiree Health Care Fund at such contribution level which received the most votes from those active volunteer members who voted in favor of participation in the Oklahoma Firefighters Retiree Health Care Fund. If two or more contribution levels received the same number of most votes, the lowest of such contribution levels shall be deemed as the contribution level that received the most votes. Active volunteer firefighters shall vote on a flat monthly dollar contribution level equal to twenty-five Dollars (\$25.00), Fifty Dollars (\$50.00), Seventy-five Dollars (\$75.00), or One Hundred Dollars (\$100.00) per month.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this subsection, if the total number of participating active paid members is less than five hundred (500) upon the completion of such elections, the Oklahoma Firefighters Retiree Health Care Fund shall not be established.

K. Benefits provided by the Oklahoma Firefighters Retiree Health Care Fund are subordinate to the benefits provided by the Oklahoma Firefighters Pension and Retirement System. At any time prior to the satisfaction of all liabilities under the Oklahoma Firefighters Retiree Health Care Fund, none of the corpus or income

of such separate account shall be used for, or diverted to, any purposes other than the providing of such benefits. Any amounts which are contributed to fund qualified medical expenses which remain in the Oklahoma Firefighters Retiree Health Care Fund upon satisfaction of all liability arising out of the operation of the Oklahoma Firefighters Retiree Health Care Fund shall be returned to the participating municipalities, as determined by the State Board.

L. Notwithstanding anything contained in this section to the contrary, the aggregate of contributions to provide qualified medical expenses and life insurance, if any, shall not exceed twenty-five percent (25%) of the aggregate contributions made to fund all benefits under the System, other than contributions to fund past service costs. For this purpose, "life insurance" means, as to any member, the in-service death benefit that would be payable upon the member's death, but only to the extent that the lump-sum value of such death benefit would exceed the lump-sum value of the member's accrued benefit at the date of the member's death.

M. The provisions of this section shall be subject to qualified domestic orders as provided in subsection B of Section 49-126 of Title 11 of the Oklahoma Statutes.

SECTION 4. AMENDATORY 11 O.S. 2001, Section 122.1, is amended to read as follows:

Section 49-122.1 A. There is hereby established a fund to be designated as the Oklahoma Firefighters Pension and Retirement Fund. All employee and employer contributions, other than those contributions made pursuant to Section 3 of this section, shall be deposited in the Fund and may be invested as provided in this article.

B. There is hereby established, subject to receipt of a favorable determination letter from the Internal Revenue Service as provided in Section 3 of this act, a fund to be designated as the Oklahoma Firefighters Retiree Health Care Fund. All employee and

employer contributions pursuant to Section 3 of this act shall be deposited in the Oklahoma Firefighters Retiree Health Care Fund and may be invested as provided in this article; however, the provisions of Section 3 of this act shall control if the other provisions in this article conflict with the provisions of Section 3 of this act.

SECTION 5. AMENDATORY 11 O.S. 2001, Section 122.3, is amended to read as follows:

Section 49-122.3 The assets of the Fund and the Oklahoma Firefighters Retiree Health Care Fund shall consist of such assets and the income therefrom, including monthly contributions made to the State Board by each municipality, or property for which any of the same shall be exchanged or into which any of the same shall be converted, together with any other assets held from time to time hereunder by the State Board. All legal right, title and interest in and to the assets of the Fund and the Oklahoma Firefighters Retiree Health Care Fund shall at all times be held in trust and vested exclusively in the State Board or its nominee and no municipality shall be deemed to have severable ownership of any asset of the Fund and the Oklahoma Firefighters Retiree Health Care Fund or any right of partition or possession.

The State Board shall appraise and place valuation upon the assets of the Fund and the Oklahoma Firefighters Retiree Health Care Fund held by it as of the last business day of each month. Any assets not held by the State Board shall be appraised and valued by the Executive Director on said date.

The valuation of all assets of the Fund and the Oklahoma Firefighters Retiree Health Care Fund shall be both at cost and at the fair market value thereof, as determined by reference to the best available source or sources, in the opinion of the Executive Director and the State Board and both the Executive Director and State Board may rely on figures, or statements appearing in any reputable publication purporting to state sales prices, market

quotations, values, bid and asking prices or any facts affecting values and upon the opinion of one or more persons familiar with the reasonable market value of any assets to be valued and shall incur no liability for error in any such valuation made in good faith.

The reasonable and equitable decision of the Executive Director and State Board regarding the method used in determining values shall be conclusive and binding upon all persons, natural or legal, having interest, direct or indirect, in the Fund's and the Oklahoma

Firefighters Retiree Health Care Fund's assets.

SECTION 6. AMENDATORY 11 O.S. 2001, Section 49-126, as last amended by Section 7, Chapter 546, O.S.L. 2004 (11 O.S. Supp. 2005, Section 49-126), is amended to read as follows:

Section 49-126. A. Except as otherwise provided by this section, no portion of said pension shall, either before or after its order of distribution by the State Board to such disabled members of said fire department, or the surviving spouse, alternate payee as defined in subsection B of this section, or guardian of such minor child or children, to the deceased or retired member of such department, be held, seized, taken, subjected to or detained or levied on by virtue of any attachment, execution, injunction, writ interlocutory or other order or decree, or any process or proceeding whatever, issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damages, claim, demand or judgment against such member, or his or her surviving spouse, alternate payee, or the guardian of said minor child or children of any deceased member, nor shall said fund or any claim thereto be directly or indirectly assigned and any attempt to assign or transfer the same shall be void; but the funds shall be held, kept, secured and distributed for the purpose of pensioning the persons named in this article, and for no other purpose whatever. Notwithstanding the foregoing, effective August 5, 1997, the State Board may approve any offset of a member's benefit to pay

a judgment or settlement against a member for a crime involving the System, for a breach of the member's fiduciary duty to the System, or for funds or monies incorrectly paid to a member or beneficiary by mistake, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986, as amended.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of this state which relates to the provision of marital property rights to an alternate payee and which creates or recognizes the existence of the right of an alternate payee and assigns to an alternate payee the right to receive a portion of the benefits payable with respect to a member of the System.

3. The term "alternate payee" means any spouse, former spouse, minor or disabled child or children, or other dependent of the member who is recognized by a domestic relations order as having a right to receive benefits payable with respect to a member of the System.

4. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

5. A qualified domestic order is valid and binding on the State Board and the related member only if it meets the requirements of this subsection.

6. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

7. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,
- b. does not require the System to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

8. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date of the related member.

9. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the earlier of the death of the related member or the death of the alternate payee. Upon the death of the alternate payee, the assignment to the alternate payee of the right to receive a portion of the benefits

payable with respect to the member shall cease and the payments of benefits to the member shall be reinstated.

10. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

11. The Oklahoma Firefighters Pension and Retirement Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

12. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the State Board pursuant to this subsection in order to continue receiving his or her benefit.

13. The provisions of Section 3 of this act shall be subject to the qualified domestic orders of this section.

C. The provisions of subsection A of this section shall not apply to a Child Support Enforcement Division order for a support arrearage pursuant to Section 240.23 of Title 56 of the Oklahoma Statutes and current child support payments made pursuant to a valid court order.

D. The provisions of subsection A of this section shall not apply to a federal tax levy made pursuant to Section 6331 of the Internal Revenue Code of 1986, as amended, and the collection by the United States on a judgment resulting from an unpaid tax assessment.

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.