

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 53rd Legislature (2011)

4 HOUSE BILL 1221

 By: McCullough

7 AS INTRODUCED

8 An Act relating to public retirement systems;
 9 amending 11 O.S. 2001, Sections 49-100.1, as last
 10 amended by Section 1, Chapter 438, O.S.L. 2010, 49-
 11 101, 49-106.1, as last amended by Section 2, Chapter
 12 438, O.S.L. 2010, 49-117.1, as last amended by
 13 Section 7, Chapter 128, O.S.L. 2003, 49-122, as
 14 amended by Section 7, Chapter 438, O.S.L. 2010 and
 15 49-134 (11 O.S. Supp. 2010 Sections 49-100.1, 49-
 16 106.1, 49-117.1 and 49-122), which relate to the
 17 Oklahoma Firefighters Pension and Retirement System;
 18 modifying definitions; modifying normal retirement
 19 date provisions; modifying multiplier used in benefit
 20 calculations for certain members; modifying vesting
 21 provisions applicable to volunteer firefighters;
 22 modifying eligibility for participation in Oklahoma
 23 Firefighters Deferred Option Plan; providing certain
 24 members with specified initial employment date
 ineligible to participate in Deferred Retirement
 Option Plans; modifying vesting provisions applicable
 to paid firefighters; modifying provisions related to
 benefit computations; modifying required employee
 contribution rates for certain members; modifying
 provisions related to maximum period of service;;
 amending 11 O.S. 2001, Section 50-101, as last
 amended by Section 1, Chapter 437, O.S.L. 2010, 50-
 110, 50-111.1, as last amended by Section 3, Chapter
 551, O.S.L. 2004 and 50-111.3, as last amended by
 Section 2, Chapter 437, O.S.L. 2010 (11 O.S. Supp.
 2010, Sections 50-101, 50-111.1 and 50-111.3), which
 relate to the Oklahoma Police Pension and Retirement
 System; modifying definitions; modifying normal
 retirement date provisions; modifying multiplier used

1 in benefit calculations for certain members;
2 modifying required employee contribution amounts;
3 modifying vesting provisions; modifying eligibility
4 for participation in Oklahoma Police Deferred Option
5 Plan; providing certain members with specified
6 initial employment date ineligible to participate in
7 Deferred Retirement Option Plans; and providing an
8 effective date.

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

10 SECTION 1. AMENDATORY 11 O.S. 2001, Section 49-100.1, as
11 last amended by Section 1, Chapter 438, O.S.L. 2010 (11 O.S. Supp.
12 2010, Section 49-100.1), is amended to read as follows:

13 Section 49-100.1 As used in this article:

14 1. "System" means the Oklahoma Firefighters Pension and
15 Retirement System and all predecessor municipal firefighters pension
16 and retirement systems;

17 2. "Article" means Article 49 of this title;

18 3. "State Board" means the Oklahoma Firefighters Pension and
19 Retirement Board;

20 4. "Local board" means the local firefighters pension and
21 retirement boards;

22 5. "Fund" means the Oklahoma Firefighters Pension and
23 Retirement Fund;

24 6. "Member" means all eligible firefighters of a participating
municipality or a fire protection district who perform the essential

1 functions of fire suppression, prevention, and life safety duties in
2 a fire department. The term "member" shall include but not be
3 limited to the person serving as fire chief of any participating
4 municipality, provided that a person serving as fire chief of a
5 participating municipality shall meet the age, agility, physical and
6 other eligibility requirements required by law at the time said
7 person becomes a member of the System. Effective July 1, 1987, a
8 member does not include a "leased employee". The term "leased
9 employee" means any person (other than an employee of the recipient)
10 who pursuant to an agreement between the recipient and any other
11 person ("leasing organization") has performed services for the
12 recipient (or for the recipient and related persons determined in
13 accordance with Section 414(n)(6) of the Internal Revenue Code of
14 1986, as amended) on a substantially full-time basis for a period of
15 at least one year, and such services are performed under primary
16 direction or control by the recipient. Contributions or benefits
17 provided a leased employee by the leasing organization which are
18 attributable to services performed for the recipient employer shall
19 be treated as provided by the recipient employer. A leased employee
20 shall not be considered an employee of the recipient if the
21 requirements of the safe harbor provisions of Section 414(n)(5) of
22 the Internal Revenue Code of 1986, as amended, are satisfied.
23 Effective July 1, 1999, any individual who agrees with the

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

6 7. "Normal retirement date" means the date at which the member
7 is eligible to receive the unreduced payments of the member's
8 accrued retirement benefit. Such date shall be the first day
9 following the date the member completes:

10 a. twenty (20) years of credited service with respect to
11 a member whose initial employment and participation in
12 the System occurred prior to November 1, 2011. If the
13 member's employment continues past the normal
14 retirement date of the member, the actual retirement
15 date of the member shall be the first day following
16 the date the member terminates employment with more
17 than twenty (20) years of credited service, or

18 b. twenty-five (25) years of credited service with
19 respect to a member whose initial employment and
20 participation in the System occurs on or after
21 November 1, 2011. If the member's employment
22 continues past the normal retirement date of the
23 member, the actual retirement date of the member shall

1 be the first day following the date the member
2 terminates employment with more than twenty-five (25)
3 years of credited service;

4 8. "Credited service" means the period of service used to
5 determine the eligibility for and the amount of benefits payable to
6 a member. Credited service shall consist of the period during which
7 the member participated in the System or the predecessor municipal
8 systems as an active employee in an eligible membership
9 classification, plus any service prior to the establishment of the
10 predecessor municipal systems which was credited under the
11 predecessor municipal systems; provided, however, "credited service"
12 for members from a fire protection district shall not begin accruing
13 before July 1, 1982;

14 9. "Participating municipality" means a municipality, county
15 fire department organized pursuant to subsection D of Section 351 of
16 Title 19 of the Oklahoma Statutes, or fire protection district which
17 is making contributions to the System on behalf of its firefighters;

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

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

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

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

9 14. "Final average salary" means the average paid gross salary
10 of the firefighter for normally scheduled hours over the highest
11 salaried thirty (30) consecutive months of the last sixty (60)
12 months of credited service. Gross salary shall not include payment
13 for accumulated sick or annual leave upon termination of employment,
14 any uniform allowances or any other compensation for reimbursement
15 of out-of-pocket expenses. Only salary on which the required
16 contributions have been made may be used in computing the final
17 average salary. Effective January 1, 1988, gross salary shall
18 include any amount of elective salary reduction under Section 125 of
19 the Internal Revenue Code of 1986, as amended. Gross salary shall
20 include any amount of elective salary reduction under Section 457 of
21 the Internal Revenue Code of 1986, as amended, and any amount of
22 nonelective salary reduction under Section 414(h) of the Internal
23 Revenue Code of 1986, as amended. Effective July 1, 1998, for

1 purposes of determining a member's compensation, any contribution by
2 the member to reduce the member's regular cash remuneration under
3 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be
4 treated as if the member did not make such an election. Only salary
5 on which required contributions have been made may be used in
6 computing final average salary.

7 In addition to other applicable limitations, and notwithstanding
8 any other provision to the contrary, for plan years beginning on or
9 after July 1, 2002, the annual gross salary of each "Noneligible
10 Member" taken into account under the System shall not exceed the
11 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")
12 annual salary limit. The EGTRRA annual salary limit is Two Hundred
13 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for
14 increases in the cost of living in accordance with Section
15 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The
16 annual salary limit in effect for a calendar year applies to any
17 period, not exceeding twelve (12) months, over which salary is
18 determined ("determination period") beginning in such calendar year.
19 If a determination period consists of fewer than twelve (12) months,
20 the EGTRRA salary limit will be multiplied by a fraction, the
21 numerator of which is the number of months in the determination
22 period, and the denominator of which is twelve (12). For purposes
23 of this subsection, a "Noneligible Member" is any member who first

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1 became a member during a plan year commencing on or after July 1,
2 1996.

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

7 Effective January 1, 2008, gross salary shall also include gross
8 salary, as described above, for services, but paid by the later of
9 two and one-half (2 1/2) months after a firefighter's severance from
10 employment or the end of the calendar year that includes the date
11 the firefighter terminated employment, if it is a payment that,
12 absent a severance from employment, would have been paid to the
13 firefighter while the firefighter continued in employment with the
14 participating municipality.

15 Effective January 1, 2008, any payments not described above
16 shall not be considered gross salary if paid after severance from
17 employment, even if they are paid by the later of two and one-half
18 (2 1/2) months after the date of severance from employment or the
19 end of the calendar year that includes the date of severance from
20 employment, except payments to an individual who does not currently
21 perform services for the participating municipality by reason of
22 qualified military service within the meaning of Section 414(u)(5)
23 of the Internal Revenue Code of 1986, as amended, to the extent
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1 these payments do not exceed the amounts the individual would have
2 received if the individual had continued to perform services for the
3 participating municipality rather than entering qualified military
4 service.

5 Effective January 1, 2008, back pay, within the meaning of
6 Section 1.415(c)-2(g)(8) of the Income Tax Regulations, shall be
7 treated as gross salary for the limitation year to which the back
8 pay relates to the extent the back pay represents wages and
9 compensation that would otherwise be included in this definition.

10 Effective for years beginning after December 31, 2008, gross
11 salary shall also include differential wage payments under Section
12 414(u)(12) of the Internal Revenue Code of 1986, as amended;

13 15. "Accrued retirement benefit" means:

14 a. two and one-half percent (2 1/2%) of the firefighter's
15 final average salary multiplied by the member's years
16 of credited service not to exceed thirty (30) years
17 for all members of the System whose initial employment
18 and participation in the System occurred prior to

19 November 1, 2011, or

20 b. two percent (2%) of the firefighter's final average
21 salary multiplied by the member's years of credited
22 service not to exceed twenty-five (25) years for all
23 members of the System whose initial employment and

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1 participation in the System occurs on or after
2 November 1, 2011;

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

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

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

12 SECTION 2. AMENDATORY 11 O.S. 2001, Section 49-101, is
13 amended to read as follows:

14 Section 49-101. A. All retired volunteer fire fighters who
15 qualify for retirement shall be entitled to a monthly pension. The
16 monthly pension of a volunteer fire fighter shall be in the amount
17 retired volunteer fire fighters are receiving at the time the
18 volunteer fire fighter begins to receive a pension for each year of
19 credited service not to exceed thirty (30) years. In determining
20 the number of years of credited service, a fractional year of six
21 (6) months or more shall be counted as one (1) full year and a
22 fractional year of less than six (6) months shall not be counted in
23 such determination. Retired volunteer fire fighters of a

1 municipality shall receive a pension of not less than that which
2 retired volunteer fire fighters of such municipality were receiving
3 on June 30, 1985.

4 B. If a volunteer fire fighter whose first service and
5 participation in the System occurs prior to November 1, 2011,
6 terminates service after completing ten (10) years of credited
7 service, the volunteer fire fighter shall receive a vested benefit.
8 The volunteer fire fighter shall be entitled to a monthly pension
9 commencing on the date the fire fighter reaches fifty (50) years of
10 age or the date the fire fighter would have had twenty (20) years of
11 credited service had the fire fighter's service continued
12 uninterrupted, whichever is later. If a volunteer fire fighter
13 whose first service and participation in the System occurs on or
14 after November 1, 2011, terminates service after completing twelve
15 (12) years and six (6) months of credited service, the volunteer
16 fire fighter shall receive a vested benefit. The volunteer fire
17 fighter shall be entitled to a monthly pension commencing on the
18 date the fire fighter would have had twenty-five (25) years of
19 credited service had the fire fighter's service continued
20 uninterrupted. The monthly amount of such retirement benefit shall
21 be the amount being paid to volunteer fire fighters at the time the
22 member vests multiplied by the number of years of credited service.
23 Credited service must be established at the time of the volunteer
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1 fire fighter's termination. If a volunteer fire fighter who
2 terminates employment and receives a vested benefit dies prior to
3 being eligible to receive benefits, the volunteer fire fighter's
4 beneficiary shall be entitled to the volunteer fire fighter's normal
5 monthly retirement benefit on the date the deceased volunteer fire
6 fighter would have been eligible to receive the benefit.

7 SECTION 3. AMENDATORY 11 O.S. 2001, Section 49-106.1, as
8 last amended by Section 2, Chapter 438, O.S.L. 2010 (11 O.S. Supp.
9 2010, Section 49-106.1), is amended to read as follows:

10 Section 49-106.1 A. In lieu of terminating employment and
11 accepting a service retirement pension pursuant to Sections 49-101
12 and 49-106 of this title, any member of the Oklahoma Firefighters
13 Pension and Retirement System, except a member of the System whose
14 initial employment and participation in the System occurs on or
15 after November 1, 2011, who has not less than twenty (20) years of
16 creditable service and who is eligible to receive a service
17 retirement pension may elect to participate in the Oklahoma
18 Firefighters Deferred Option Plan and defer the receipts of benefits
19 in accordance with the provisions of this section.

20 B. For purposes of this section, creditable service shall
21 include service credit reciprocally recognized pursuant to Sections
22 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2
23 of this title but for eligibility purposes only.

1 C. The duration of participation in the Oklahoma Firefighters
2 Deferred Option Plan for active firefighters shall not exceed five
3 (5) years. Participation in the Oklahoma Firefighters Deferred
4 Option Plan must begin the first day of a month and end on the last
5 day of a month. At the conclusion of a member's participation in
6 the Oklahoma Firefighters Deferred Option Plan, the member shall
7 terminate employment with all participating municipalities as a
8 firefighter, and shall start receiving the member's accrued monthly
9 retirement benefit from the System. Such a member may be reemployed
10 by a participating municipality but only in a position not covered
11 under the System, and receive in-service distributions of such
12 member's accrued monthly retirement benefit from the System.

13 D. When a member begins participation in the Oklahoma
14 Firefighters Deferred Option Plan, the contribution of the member
15 shall cease. The employer contributions shall continue to be paid
16 in accordance with subsection B of Section 49-122 of this title.
17 Employer contributions for members who elect the Oklahoma
18 Firefighters Deferred Option Plan shall be credited equally to the
19 Oklahoma Firefighters Pension and Retirement System and to the
20 member's Oklahoma Firefighters Deferred Option Plan account. The
21 monthly retirement benefits that would have been payable had the
22 member elected to cease employment and receive a service retirement
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1 shall be paid into the member's Oklahoma Firefighters Deferred
2 Option Plan account.

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

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

11 F. A member in the plan shall receive, at the option of the
12 member, a lump sum payment from the account equal to the payments to
13 the account or an annuity based upon the account of the member or
14 may elect any other method of payment if approved by the Board of
15 Trustees. If a member becomes so physically or mentally disabled
16 while in, or in consequence of, the performance of his or her duty
17 as to prevent the effective performance of his or her duties that
18 the State Board approves an in line of duty disability pension, the
19 payment from the account shall be an in line of duty disability
20 payment. Notwithstanding any other provision contained herein to
21 the contrary, commencement of distributions under the Oklahoma
22 Firefighters Deferred Option Plan shall be no later than the time as
23 set forth in subsection B of Section 49-106 of this title.

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1 G. If a member dies while maintaining an account balance in the
2 plan the System shall pay to the designated recipient or recipients
3 of the member, or if there is no designated recipient or if the
4 designated recipient predeceases the member, to the spouse of the
5 member, or if there is no spouse or if the spouse predeceases the
6 member, to the estate of the member a lump sum payment equal to the
7 account balance of the member. If such member was receiving, or
8 eligible to receive, an in line of duty disability pension at the
9 time of his or her death, payment of the account balance shall be an
10 in line of duty disability payment. If a designated recipient is
11 the surviving spouse of the member, the surviving spouse shall
12 receive his or her portion of the account balance of the member
13 pursuant to subsection F of this section. The surviving spouse,
14 whether or not he or she is a designated recipient of the member,
15 may elect to receive his or her portion of the account balance of
16 the member in the same manner as was applicable to the member.

17 H. In lieu of participating in the Oklahoma Firefighters
18 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
19 this section, a member, except a member whose initial employment and
20 participation in the System occurs on or after November 1, 2011,
21 may elect to participate in the Oklahoma Firefighters Deferred
22 Option Plan pursuant to this subsection as follows:

1 1. For purposes of this subsection and subsection I of this
2 section, the following definitions shall apply:

3 a. "back drop date" means the member's normal retirement
4 date or the date five (5) years before the member
5 elects to participate in the Oklahoma Firefighters
6 Deferred Option Plan, whichever date is later,

7 b. "termination date" means the date the member elects to
8 participate in the Oklahoma Firefighters Deferred
9 Option Plan pursuant to this subsection, and the date
10 the member terminates employment with all
11 participating municipalities as an active firefighter,

12 c. "earlier attained credited service" means the credited
13 service earned by a member as of the back drop date,
14 and

15 d. "deferred benefit balance" means all monthly
16 retirement benefits that would have been payable had
17 the member elected to cease employment on the back
18 drop date and receive a service retirement from the
19 back drop date to the termination date, all the
20 member's contributions and one-half (1/2) of the
21 employer contributions from the back drop date to the
22 termination date, with interest based on how the
23 benefit would have accumulated on a compound annual

1 basis as if the member had participated in the
2 Oklahoma Firefighters Deferred Option Plan pursuant to
3 subsections A, B, C, D, E and F of this section from
4 the back drop date to the termination date; and

5 2. At the termination date, the monthly pension benefit shall
6 be determined based on earlier attained credited service and on the
7 final average salary as of the back drop date. The member's
8 individual deferred option account shall be credited with an amount
9 equal to the deferred benefit balance, the member shall terminate
10 employment with all participating municipalities as a firefighter,
11 and shall start receiving the member's accrued monthly retirement
12 benefit from the System. Such a member may be reemployed by a
13 participating municipality but only in a position not covered under
14 the System, and receive in-service distributions of such member's
15 accrued monthly retirement benefit from the System. The provisions
16 of subsections B, C, E, F and G of this section shall apply to this
17 subsection. A member shall not participate in the Oklahoma
18 Firefighters Deferred Option Plan pursuant to this subsection if the
19 member has elected to participate in the Oklahoma Firefighters
20 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
21 this section.

1 I. Certain surviving spouses and members shall be eligible to
2 participate in the Oklahoma Firefighters Deferred Option Plan
3 pursuant to subsection H of this section and this subsection.

4 1. For purposes of this subsection, the following definitions
5 shall apply:

- 6 a. "back drop election date" means the date the surviving
7 spouse or member elects to commence participation in
8 the Oklahoma Firefighters Deferred Option Plan
9 pursuant to subsection H of this section and this
10 subsection,
- 11 b. "interest" means the actuarial assumed interest rate
12 as certified by the actuary in the yearly evaluation
13 report of the actuary,
- 14 c. "monthly adjustment amount" means the difference
15 between the monthly pension prior to the back drop
16 election and the adjusted monthly pension due to the
17 back drop election,
- 18 d. "back drop pension adjustment amount" means the sum of
19 all the monthly adjustment amounts adjusted for
20 interest from the pension commencement date to the
21 back drop election date, and
- 22 e. "deferred benefit balance adjustment amount" means the
23 interest on the deferred benefit balance from the
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1 pension commencement date to the back drop election
2 date.

3 2. If a member who has more than twenty (20) years of
4 creditable service and is eligible to receive a service retirement
5 pension dies on or after June 4, 2007, and prior to terminating
6 employment, the member's surviving spouse shall be eligible to elect
7 to receive a benefit determined as if the member had elected to
8 participate in the Oklahoma Firefighters Deferred Option Plan in
9 accordance with subsection H of this section on the day immediately
10 preceding such member's death. Prior to July 1, 2010, the surviving
11 spouse must make any such election within one (1) year from the date
12 of the member's death. Effective July 1, 2010, the surviving spouse
13 must make any such election within ninety (90) days from the date of
14 the member's death. If on or after June 4, 2007, such election is
15 made, the monthly pension such surviving spouse is entitled to
16 receive shall be adjusted in accordance with the provisions of
17 subsection H of this section to account for the member's
18 participation in the Oklahoma Firefighters Deferred Option Plan.
19 The surviving spouse may only make this election if the member has
20 not previously elected to participate in the Oklahoma Firefighters
21 Deferred Option Plan. For purposes of this election, the surviving
22 spouse must have been married to the firefighter for the thirty (30)
23 continuous months preceding the firefighter's death; provided, the

1 surviving spouse of a member who died while in, or as a consequence
2 of, the performance of the member's duty for a participating
3 municipality shall not be subject to the marriage limitation for
4 this election.

5 3. If a member has more than twenty (20) years of creditable
6 service and is eligible for a retirement for disability monthly
7 pension pursuant to Section 49-109 of this title on or after June 4,
8 2007, such member shall be eligible to elect to receive a benefit
9 determined as if the member had elected to participate in the
10 Oklahoma Firefighters Deferred Option Plan, in accordance with
11 subsection H of this section, on the day immediately preceding the
12 date of the member's disability retirement, provided such election
13 is made within two (2) years from the date of the member's
14 disability retirement. The disability monthly pension such member
15 is receiving, or entitled to receive, shall be adjusted in
16 accordance with the provisions of subsection H of this section to
17 account for the member's participation in the Oklahoma Firefighters
18 Deferred Option Plan. The deferred benefit balance such member is
19 entitled to receive shall be reduced by the back drop pension
20 adjustment amount and increased by the deferred benefit balance
21 adjustment amount. The member may only make a back drop election if
22 the deferred benefit balance after the adjustment described in this
23 paragraph is greater than Zero Dollars (\$0.00). The member may only

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1 make this election if the member has not previously elected to
2 participate in the Oklahoma Firefighters Deferred Option Plan.

3 4. If a member has more than twenty (20) years of creditable
4 service and filed a grievance for wrongful termination occurring on
5 or after June 4, 2007, but is not reinstated as an active member,
6 such member shall be eligible to elect to receive a benefit
7 determined as if the member had elected to participate in the
8 Oklahoma Firefighters Deferred Option Plan in accordance with
9 subsection H of this section on the day immediately preceding the
10 date of the member's termination. Such election must be made within
11 two (2) years from the date of the member's termination as an active
12 member and, if the member's case pertaining to the member's
13 termination is on appeal to a court of competent jurisdiction,
14 within such period set by the State Board in its sole discretion.
15 The monthly pension such member is receiving, or entitled to
16 receive, shall be adjusted in accordance with the provisions of
17 subsection H of this section to account for the member's
18 participation in the Oklahoma Firefighters Deferred Option Plan.
19 The deferred benefit balance such member is entitled to receive
20 shall be reduced by the back drop pension adjustment amount and
21 increased by the deferred benefit balance adjustment amount. The
22 member may only make a back drop election if the deferred benefit
23 balance after the adjustment described in this paragraph is greater

1 than Zero Dollars (\$0.00). The member may only make this election
2 if the member has not previously elected to participate in the
3 Oklahoma Firefighters Deferred Option Plan.

4 5. Subparagraphs d and e of paragraph 1 and paragraphs 3 and 4
5 of this subsection are effective June 4, 2007, provided the Internal
6 Revenue Service issues a favorable determination letter for the
7 System which includes the provisions of such subparagraphs and
8 paragraphs without modification or as modified to conform to any
9 changes required by the Internal Revenue Service as part of its
10 determination letter review process. In the event the Internal
11 Revenue Service does not issue such a determination letter which
12 includes the provisions of such subparagraphs or paragraphs without
13 modification or as modified to conform to any changes required by
14 the Internal Revenue Service as part of its determination letter
15 review process, then subparagraphs d and e of paragraph 1 and
16 paragraphs 3 and 4 of this subsection shall be repealed effective
17 June 4, 2007.

18 SECTION 4. AMENDATORY 11 O.S. 2001, Section 49-117.1, as
19 last amended by Section 7, Chapter 128, O.S.L. 2003 (11 O.S. Supp.
20 2010, Section 49-117.1), is amended to read as follows:

21 Section 49-117.1 A member who terminates service before normal
22 retirement date, other than by death or disability shall, upon
23 application filed with the State Board, be refunded from the Fund an

1 amount equal to the accumulated contributions the member has made to
2 the Fund, but excluding any interest or any amount contributed by
3 the municipality or state. If a member whose initial employment and
4 participation in the System occurred prior to November 1, 2011, has
5 completed ten (10) years of credited service at the date of
6 termination, the member may elect a vested benefit in lieu of
7 receiving the member's accumulated contributions. If a member whose
8 initial employment and participation in the System occurs on or
9 after November 1, 2011, has completed twelve (12) years and six (6)
10 months of credited service at the date of termination, the member
11 may elect a vested benefit in lieu of receiving the member's
12 accumulated contributions.

13 If the member who has completed ten (10) or more years of
14 credited service elects the vested benefit, the member shall be
15 entitled to a monthly retirement annuity commencing on the date the
16 member reaches fifty (50) years of age or the date the member would
17 have had twenty (20) years of credited service had the member's
18 employment continued uninterrupted, whichever is later. The annual
19 amount of such retirement annuity shall be equal to two and one-half
20 percent (2 1/2%) of final average salary multiplied by the number of
21 years of credited service. If the member who has completed twelve
22 (12) years and six (6) months or more of credited service elects the
23 vested benefit, the member shall be entitled to a monthly retirement

1 annuity commencing on the date the member would have had twenty-five
2 (25) years of credited service had the member's employment continued
3 uninterrupted. The annual amount of such retirement annuity shall
4 be equal to two percent (2%) of final average salary multiplied by
5 the number of years of credited service. The death benefits
6 provided for in this article shall not apply to any member retiring
7 under the provisions of this section.

8 If a member who terminates employment and elects a vested
9 benefit dies prior to being eligible to receive benefits, the
10 member's beneficiary shall be entitled to the member's normal
11 monthly retirement benefit on the date the deceased member would
12 have been eligible to receive the benefit.

13 If a member terminates employment and withdraws the member's
14 accumulated contributions and then subsequently rejoins the System,
15 he may pay to the System the sum of the accumulated contributions he
16 has withdrawn plus five percent (5%) annual interest from the date
17 of withdrawal and shall receive the same benefits as if he had never
18 withdrawn his contributions; however, effective January 1, 1991, the
19 rate of interest provided herein shall be ten percent (10%) per
20 annum.

21 Effective January 1, 2002, lump-sum payments for repayment of
22 any amounts received because of a member's prior termination with
23 interest may be repaid by a trustee-to-trustee transfer from a Code
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1 Section 403(b) annuity, a governmental Code Section 457 plan, and/or
2 a Code Section 401(a) qualified plan.

3 A fire fighter shall not be permitted to withdraw from the
4 System while employed as a fire fighter in a participating
5 municipality.

6 SECTION 5. AMENDATORY 11 O.S. 2001, Section 49-122, as
7 amended by Section 7, Chapter 438, O.S.L. 2010 (11 O.S. Supp. 2010,
8 Section 49-122), is amended to read as follows:

9 Section 49-122. A. Each municipality having a paid member of a
10 fire department shall deduct monthly from the salary of each member
11 of the fire department of such municipality an amount equal to eight
12 percent (8%) of the actual paid gross salary of each member of the
13 fire department whose initial employment and participation in the
14 System occurred prior to November 1, 2011, and shall deduct monthly
15 from the salary of each member of the fire department of such
16 municipality an amount equal to twelve percent (12%) of the actual
17 paid gross salary of each member of the fire department whose
18 initial employment and participation in the System occurs on or
19 after November 1, 2011. The deduction shall be considered the
20 minimum deduction. At the option of the municipality, the
21 municipality may pay all or any part of the member's required
22 contribution. The treasurer of each municipality shall deduct the
23 authorized deductions from the salary of each paid member of the

1 fire department. The treasurer of the municipality shall deposit
2 within ten (10) days from each ending payroll date in the System the
3 amount deducted from the salary of each member of the fire
4 department. Amounts deducted from the salary of a member and not
5 paid to the System after thirty (30) days from each ending payroll
6 date shall be subject to a monthly late charge of one and one-half
7 percent (1 1/2%) of the unpaid balance to be paid by the
8 municipality to the System.

9 Each municipality shall pick up under the provisions of Section
10 414(h) (2) of the Internal Revenue Code of 1986, as amended, and pay
11 the contribution which the member is required by law to make to the
12 System for all compensation earned after December 31, 1988.
13 Although the contributions so picked up are designated as member
14 contributions, such contributions shall be treated as contributions
15 being paid by the municipality in lieu of contributions by the
16 member in determining tax treatment under the Internal Revenue Code
17 of 1986, as amended, and such picked up contributions shall not be
18 includable in the gross income of the member until such amounts are
19 distributed or made available to the member or the beneficiary of
20 the member. The member, by the terms of this System, shall not have
21 any option to choose to receive the contributions so picked up
22 directly and the picked up contributions must be paid by the
23 municipality to the System.

1 Member contributions which are picked up shall be treated in the
2 same manner and to the same extent as member contributions made
3 prior to the date on which member contributions were picked up by
4 the municipality. Member contributions so picked up shall be
5 included in salary for purposes of the System.

6 The municipality shall pay the member contributions from the
7 same source of funds used in paying salary to the member, by
8 effecting an equal cash reduction in gross salary of the member, or
9 by an offset against future salary increases, or by a combination of
10 reduction in gross salary and offset against future salary
11 increases.

12 The treasurer of each municipality shall deduct the picked up
13 contributions from the salary of each paid member of the fire
14 department. The treasurer of the municipality shall deposit monthly
15 in the System the amount picked up from the salary of each member of
16 the fire department.

17 B. Each municipality having a paid member of a fire department
18 shall deposit monthly with the State Board an amount equal to the
19 following:

20 1. Prior to July 1, 1991, ten percent (10%) of the total actual
21 paid gross salaries of the members of the fire department;

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1 2. Beginning July 1, 1991 through June 30, 1992, ten and one-
2 half percent (10 1/2%) of the total actual paid gross salaries of
3 the members of the fire department;

4 3. Beginning July 1, 1992 through June 30, 1993, eleven percent
5 (11%) of the total actual paid gross salaries of the members of the
6 fire department;

7 4. Beginning July 1, 1993 through June 30, 1994, eleven and
8 one-half percent (11 1/2%) of the total actual paid gross salaries
9 of the members of the fire department;

10 5. Beginning July 1, 1994 through June 30, 1995, twelve percent
11 (12%) of the total actual paid gross salaries of the members of the
12 fire department;

13 6. Beginning July 1, 1995 through June 30, 1996, twelve and
14 one-half percent (12 1/2%) of the total actual paid gross salaries
15 of the members of the fire department; and

16 7. Beginning July 1, 1996, thirteen percent (13%) of the total
17 actual paid gross salaries of the members of the fire department.

18 C. Each county or municipality having a volunteer member of a
19 fire department shall deposit yearly with the State Board Sixty
20 Dollars (\$60.00) for each volunteer member of the department.

21 Provided, the above-mentioned volunteer county or municipal
22 contributions shall be reevaluated by the next scheduled actuarial
23 study and the amounts adjusted so that in a nine-year period of
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1 time, the amounts would reflect the actuarial recommendations at
2 that time. Any county or municipality with an income of less than
3 Twenty-five Thousand Dollars (\$25,000.00) to its general fund during
4 a fiscal year shall be exempt from the provisions of this
5 subsection.

6 Any municipality that fails to comply with the provisions of
7 this section shall not be entitled to its proportionate share of the
8 Motor Fuel Excise Tax which is received through the Oklahoma Tax
9 Commission. Any county or municipality may exceed the amount of
10 contribution required by this section.

11 The provisions of this section shall supercede any city charter
12 provision in direct conflict with this section.

13 SECTION 6. AMENDATORY 11 O.S. 2001, Section 49-134, is
14 amended to read as follows:

15 Section 49-134. No person, who is eligible for retirement under
16 the laws of this state pertaining to the System, shall serve in any
17 capacity as a member of any fire department of any municipality of
18 this state after having attained the age of sixty-five (65) years,
19 provided, however, no person shall be required to retire because of
20 the provisions of this section until such person shall have
21 completed twenty (20) years service for those members whose initial
22 employment and participation in the System occurred prior to
23 November 1, 2011, or twenty-five (25) years for those members whose

1 initial employment and participation in the System occurs on or
2 after November 1, 2011.

3 SECTION 7. AMENDATORY 11 O.S. 2001, Section 50-101, as
4 last amended by Section 1, Chapter 437, O.S.L. 2010 (11 O.S. Supp.
5 2010, Section 50-101), is amended to read as follows:

6 Section 50-101. As used in this article:

7 1. "System" means the Oklahoma Police Pension and Retirement
8 System and all predecessor municipal Police Pension and Retirement
9 Systems;

10 2. "Article" means Article 50 of this title;

11 3. "State Board" means the Oklahoma Police Pension and
12 Retirement Board;

13 4. "Fund" means the Oklahoma Police Pension and Retirement
14 Fund;

15 5. "Officer" means any duly appointed and sworn full-time
16 officer of the regular police department of a municipality whose
17 duties are to preserve the public peace, protect life and property,
18 prevent crime, serve warrants, enforce all laws and municipal
19 ordinances of this state, and any political subdivision thereof, and
20 who is authorized to bear arms in the execution of such duties;

21 6. "Member" means all eligible officers of a participating
22 municipality and any person hired by a participating municipality
23 who is undergoing police training to become a permanent police
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1 officer of the municipality. Effective July 1, 1987, a member does
2 not include a "leased employee" as defined under Section 414(n)(2)
3 of the Internal Revenue Code of 1986, as amended. Effective July 1,
4 1999, any individual who agrees with the participating municipality
5 that the individual's services are to be performed as a leased
6 employee or an independent contractor shall not be a member
7 regardless of any classification as a common law employee by the
8 Internal Revenue Service or any other governmental agency, or any
9 court of competent jurisdiction. A member shall include eligible
10 commissioned officers of the Oklahoma State Bureau of Narcotics and
11 Dangerous Drugs Control, the Oklahoma State Bureau of Investigation,
12 and the Alcoholic Beverage Laws Enforcement Commission who elect to
13 participate in the System pursuant to Section 50-111.5 of this
14 title;

15 7. "Normal retirement date" means the date at which the member
16 is eligible to receive the unreduced payments of the member's
17 accrued retirement benefit. Such date shall be the first day of the
18 month coinciding with or following the date the member completes:

19 a. twenty (20) years of credited service with respect to
20 a member whose initial employment and participation in
21 the System occurred prior to November 1, 2011. If the
22 member's employment continues past the normal
23 retirement date of the member, the actual retirement

1 date of the member shall be the first day of the month
2 after the member terminates employment with more than
3 twenty (20) years of credited service, or

4 b. twenty-five (25) years of credited service with
5 respect to a member whose initial employment and
6 participation in the System occurs on or after
7 November 1, 2011. If the member's employment
8 continues past the normal retirement date of the
9 member, the actual retirement date of the member shall
10 be the first day following the date the member
11 terminates employment with more than twenty-five (25)
12 years of credited service;

13 8. "Credited service" means the period of service used to
14 determine the eligibility for and the amount of benefits payable to
15 a member. Credited service shall consist of the period during which
16 the member participated in the System or the predecessor municipal
17 systems as an active employee in an eligible membership
18 classification, plus any service prior to the establishment of the
19 predecessor municipal systems which was credited under the
20 predecessor municipal systems or credited service granted by the
21 State Board;

22 9. "Participating municipality" means a municipality which is
23 making contributions to the System on behalf of its officers. The
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1 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the
2 Oklahoma State Bureau of Investigation, and the Alcoholic Beverage
3 Laws Enforcement Commission shall be treated in the same manner as a
4 participating municipality only regarding those members who elect to
5 participate in the System pursuant to Section 50-111.5 of this
6 title;

7 10. "Permanent total disability" means incapacity due to
8 accidental injury or occupational disease, to earn any wages in the
9 employment for which the member is physically suited and reasonably
10 fitted through education, training or experience. Further, the
11 member must be declared one hundred percent (100%) impaired as
12 defined by the "American Medical Association's Guides to the
13 Evaluation of Permanent Impairment" on the basis of a physical
14 medical examination by a physician licensed to practice medicine in
15 this state, as selected by the State Board;

16 11. "Permanent partial disability" means permanent disability
17 which is less than permanent total disability as defined in this
18 section. The member must be declared no greater than ninety-nine
19 percent (99%) impaired as defined by the "American Medical
20 Association's Guides to the Evaluation of Permanent Impairment" on
21 the basis of a physical medical examination by a physician licensed
22 to practice medicine in this state, as selected by the State Board;

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1 12. "Permanent in-line disability" means incapacity to earn any
2 wages as a certified, commissioned police officer due to accidental
3 injury or occupational disease, incurred while in, and in
4 consequence of, the performance of duty as an officer;

5 13. "Beneficiary" means a member's surviving spouse or any
6 surviving children, including biological and adopted children, at
7 the time of the member's death. The surviving spouse must have been
8 married to the member for the thirty (30) continuous months
9 immediately preceding the member's death, provided a surviving
10 spouse of a member who died while in, and as a consequence of, the
11 performance of the member's duty for a participating municipality,
12 shall not be subject to the thirty-month marriage requirement for
13 survivor benefits. A surviving child of a member shall be a
14 beneficiary until reaching eighteen (18) years of age or twenty-two
15 (22) years of age if the child is enrolled full time and regularly
16 attending a public or private school or any institution of higher
17 education. Any child adopted by a member after the member's
18 retirement shall be a beneficiary only if the child is adopted by
19 the member for the thirty (30) continuous months preceding the
20 member's death. Any child who is adopted by a member after the
21 member's retirement and such member dies accidentally or as a
22 consequence of the performance of the member's duty as a police
23 officer shall not be subject to the thirty-month adoption

1 requirement. This definition of beneficiary shall be in addition to
2 any other requirement set forth in this article;

3 14. "Executive Director" means the managing officer of the
4 System employed by the State Board;

5 15. "Eligible employer" means any municipality with a municipal
6 police department;

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

10 17. "Final average salary" means the average paid base salary
11 of the member for normally scheduled hours over the highest salaried
12 thirty (30) consecutive months of the last sixty (60) months of
13 credited service.

14 a. Base salary shall not include payment for accumulated
15 sick and annual leave upon termination of employment,
16 severance pay or any uniform allowances. Provided,
17 for purposes of determining the normal disability
18 benefit, final average salary shall be based on the
19 member's total service if less than thirty (30)
20 months. Base salary shall include any amount of
21 elective salary reduction under Section 457 of the
22 Internal Revenue Code of 1986, as amended, and any
23 amount of nonelective salary reduction under Section

1 414(h) of the Internal Revenue Code of 1986, as
2 amended. Effective January 1, 1988, base salary shall
3 include any amount of elective salary reduction under
4 Section 125 of the Internal Revenue Code of 1986, as
5 amended. Effective July 1, 1998, gross salary shall
6 include any amount of elective salary reduction not
7 includable in the gross income of the member under
8 Section 132(f)(4) of the Internal Revenue Code of
9 1986, as amended. Only salary on which required
10 contributions have been made may be used in computing
11 the final average salary.

- 12 b. In addition to other applicable limitations, and
13 notwithstanding any other provision to the contrary,
14 for plan years beginning on or after July 1, 2002, the
15 annual compensation of each "Noneligible Member" taken
16 into account under the System shall not exceed the
17 Economic Growth and Tax Relief Reconciliation Act of
18 2001 (EGTRRA) annual compensation limit. The EGTRRA
19 annual compensation limit is Two Hundred Thousand
20 Dollars (\$200,000.00), as adjusted by the Commissioner
21 for increases in the cost of living in accordance with
22 Section 401(a)(17)(B) of the Internal Revenue Code of
23 1986, as amended. The annual compensation limit in
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1 effect for a calendar year applies to any period, not
2 exceeding twelve (12) months, over which compensation
3 is determined ("determination period") beginning in
4 such calendar year. If a determination period
5 consists of fewer than twelve (12) months, the EGTRRA
6 annual compensation limit will be multiplied by a
7 fraction, the numerator of which is the number of
8 months in the determination period, and the
9 denominator of which is twelve (12). For purposes of
10 this section, a "Noneligible Member" is any member who
11 first became a member during a plan year commencing on
12 or after July 1, 1996.

13 c. For plan years beginning on or after July 1, 2002, any
14 reference in the System to the annual compensation
15 limit under Section 401(a)(17) of the Internal Revenue
16 Code of 1986, as amended, shall mean the EGTRRA annual
17 compensation limit set forth in this provision.

18 d. Effective January 1, 2008, base salary shall also
19 include base salary, as described above for services,
20 but paid by the later of two and one-half (2 1/2)
21 months after a member's severance from employment or
22 the end of the calendar year that includes the date
23 the member terminated employment, if it is a payment

1 that, absent a severance from employment, would have
2 been paid to the member while the member continued in
3 employment with the participating municipality.

4 e. Effective January 1, 2008, any payments not described
5 above shall not be considered base salary if paid
6 after severance from employment, even if they are paid
7 by the later of two and one-half (2 1/2) months after
8 the date of severance from employment or the end of
9 the calendar year that includes the date of severance
10 from employment, except payments to an individual who
11 does not currently perform services for the
12 participating municipality by reason of qualified
13 military service within the meaning of Section
14 414(u) (5) of the Internal Revenue Code of 1986, as
15 amended, to the extent these payments do not exceed
16 the amounts the individual would have received if the
17 individual had continued to perform services for the
18 participating municipality rather than entering
19 qualified military service.

20 f. Effective January 1, 2008, back pay, within the
21 meaning of Section 1.415(c)-2(g) (8) of the Income Tax
22 Regulations, shall be treated as base salary for the
23 limitation year to which the back pay relates to the
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1 extent the back pay represents wages and compensation
2 that would otherwise be included in this definition.

- 3 g. Effective for years beginning after December 31, 2008,
4 base salary shall also include differential wage
5 payments under Section 414(u) (12) of the Internal
6 Revenue Code of 1986, as amended;

7 18. "Accrued retirement benefit" means:

- 8 a. two and one-half percent (2 1/2%) of the member's
9 final average salary multiplied by the member's years
10 of credited service not to exceed thirty (30) years,
11 for all members whose initial employment and
12 participation in the System occurred prior to November
13 1, 2011, or
14 b. two percent (2%) of the member's final average salary
15 multiplied by the member's years of credited service
16 not to exceed twenty-five (25) years for all members
17 of the System whose initial employment and
18 participation in the System occurs on or after
19 November 1, 2011;

20 19. "Normal disability benefit" means two and one-half percent
21 (2 1/2%) of the member's final average salary multiplied by twenty
22 (20) years;

1 20. "Limitation year" means the year used in applying the
2 limitations of Section 415 of the Internal Revenue Code of 1986, as
3 amended, which year shall be the calendar year;

4 21. "Paid base salary" means, effective May 1, 2002, all
5 compensation that shall include longevity, educational allowances,
6 and normal compensation paid on a regularly scheduled pay period of
7 which said pay period shall include holidays, annual leave and sick
8 leave. Paid base salary shall not include overtime, shall not
9 include payment for accumulated sick and annual leave upon
10 termination of employment, and shall not include any uniform
11 allowance or any other compensation for reimbursement of out-of-
12 pocket expenses; and

13 22. "Actuarial equivalent" means equality in value of the
14 aggregate amounts expected to be received based on interest rate and
15 mortality assumptions set by the State Board, in a manner that
16 precludes employer discretion, and based upon recommendations from
17 independent professional advisors, and which shall be published
18 annually in the actuarial report.

19 SECTION 8. AMENDATORY 11 O.S. 2001, Section 50-110, is
20 amended to read as follows:

21 Section 50-110. A. Each member in the System whose initial
22 employment and participation in the System occurred prior to
23 November 1, 2011, shall contribute to the System a minimum of eight
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1 percent (8%) of the member's actual paid base salary. Each member
2 in the System whose initial employment and participation in the
3 System occurs on or after November 1, 2011, shall contribute to the
4 System a minimum of twelve percent (12%) of the member's actual paid
5 base salary.

6 At the option of the participating municipality, the
7 participating municipality may pay all or any part of the member's
8 required contribution. The sums contributed shall be paid to the
9 System as provided in this article within ten (10) days following
10 the payroll period on which the contributions are based. Amounts
11 deducted from the salary of a member and not paid to the System
12 after thirty (30) days from each ending payroll date shall be
13 subject to a monthly late charge of one and one-half percent (1
14 1/2%) of the unpaid balance to be paid by the municipality to the
15 System. All funds received by a participating municipality for
16 police retirement purposes shall be forwarded to the State Board for
17 credit to the Fund.

18 B. Each municipality shall pick up under the provisions of
19 Section 414(h)(2) of the Internal Revenue Code of 1986 and pay the
20 contribution which the member is required by law to make to the
21 System for all compensation earned after December 31, 1988.

22 Although the contributions so picked up are designated as member
23 contributions, such contributions shall be treated as contributions

1 being paid by the municipality in lieu of contributions by the
2 member in determining tax treatment under the Internal Revenue Code
3 of 1986 and such picked up contributions shall not be includable in
4 the gross income of the member until such amounts are distributed or
5 made available to the member or the beneficiary of the member. The
6 member, by the terms of this System, shall not have any option to
7 choose to receive the contributions so picked up directly and the
8 picked up contributions must be paid by the municipality to the
9 System.

10 Member contributions which are picked up shall be treated in the
11 same manner and to the same extent as member contributions made
12 prior to the date on which member contributions were picked up by
13 the municipality. Member contributions so picked up shall be
14 included in gross salary for purposes of determining benefits and
15 contributions under the System.

16 The municipality shall pay the member contributions from the
17 same source of funds used in paying salary to the member, by
18 effecting an equal cash reduction in gross salary of the member.

19 SECTION 9. AMENDATORY 11 O.S. 2001, Section 50-111.1, as
20 last amended by Section 3, Chapter 551, O.S.L. 2004 (11 O.S. Supp.
21 2010, Section 50-111.1), is amended to read as follows:

22 Section 50-111.1 A. A member who terminates service before
23 normal retirement date, other than by death or disability shall,

1 upon application filed with the State Board, be refunded from the
2 Fund an amount equal to the accumulated contributions the member has
3 made to the Fund, but excluding any interest or any amount
4 contributed by the municipality or state. If a member withdraws the
5 member's accumulated contributions, such member shall not have any
6 recourse against the System for any type of additional benefits
7 including, but not limited to, disability benefits. If a member
8 whose initial employment and participation in the System occurred
9 prior to November 1, 2011, has completed ten (10) years of credited
10 service at the date of termination, the member may elect a vested
11 benefit in lieu of receiving the member's accumulated contributions.
12 If a member whose initial employment and participation in the System
13 occurs on or after November 1, 2011, completes twelve (12) years and
14 six (6) months of credited service at the date of termination, the
15 member may elect a vested benefit in lieu of receiving the member's
16 accumulated contributions.

17 If the member who has completed ten (10) or more years of
18 credited service elects the vested benefit, the member shall be
19 entitled to a monthly retirement annuity commencing on the date the
20 member reaches fifty (50) years of age or the date the member would
21 have had twenty (20) years of credited service had the member's
22 employment continued uninterrupted, whichever is later. The annual
23 amount of such retirement annuity shall be equal to two and one-half

1 percent (2 1/2%) of final average salary multiplied by the number of
2 years of credited service. If the member who has completed twelve
3 (12) years and six (6) months or more of credited service elects the
4 vested benefit, the member shall be entitled to a monthly retirement
5 annuity commencing on the date the member would have had twenty-five
6 (25) years of credited service had the member's employment continued
7 uninterrupted. The annual amount of such retirement annuity shall
8 be equal to two percent (2%) of final average salary multiplied by
9 the number of years of credited service.

10 If a terminated member has elected a vested benefit and
11 subsequently returns to work as a police officer of a participating
12 municipality, their vested benefit will be set aside and prior
13 credited service will be reinstated.

14 B. If a member who terminates employment and elects a vested
15 benefit dies prior to being eligible to receive benefits, the
16 member's beneficiary shall be entitled to the member's normal
17 monthly accrued retirement benefits on the date the deceased member
18 would have been eligible to receive the benefit.

19 C. Whenever a member has terminated or hereafter terminates
20 covered employment and has withdrawn or hereafter withdraws the
21 member's accumulated contributions and has rejoined or hereafter
22 rejoins the System, the member, upon proper application and approval
23 by the Board, may pay to the System the sum of the accumulated
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1 contributions the member has withdrawn or hereafter withdraws plus
2 ten percent (10%) annual interest from the date of withdrawal and
3 shall receive the same benefits as if the member had never withdrawn
4 the contributions. Effective July 1, 2003, a lump-sum payment for
5 repayment of any amounts received because of a member's prior
6 termination may be repaid by trustee-to-trustee transfers from a
7 Section 403(b) annuity, an eligible Section 457(b) plan, and/or a
8 Section 401(a) qualified plan. Those members who at the time of
9 termination of employment could not withdraw any of their
10 accumulated contributions shall receive credited service for the
11 time employed as an officer prior to any such termination upon
12 proper application and approval by the Board. To receive credit for
13 such service, all required contributions and interest shall be paid
14 within ninety (90) days of Board approval of the application. The
15 provisions of this subsection shall not apply to any member who is
16 receiving benefits from the System as of July 1, 1987.

17 D. If an active member dies and does not leave a beneficiary,
18 the accumulated contributions made to the System by the member shall
19 be paid to the estate of the member.

20 SECTION 10. AMENDATORY 11 O.S. 2001, Section 50-111.3,
21 as last amended by Section 2, Chapter 437, O.S.L. 2010 (11 O.S.
22 Supp. 2010, Section 50-111.3), is amended to read as follows:
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1 Section 50-111.3 A. In lieu of terminating employment and
2 accepting a service retirement pension pursuant to Section 50-114 of
3 this title, any member of the Oklahoma Police Pension and Retirement
4 System, except a member whose initial employment and participation
5 in the System occurs on or after November 1, 2011, who has not less
6 than twenty (20) years of creditable service and who is eligible to
7 receive a service retirement pension may make an irrevocable
8 election to participate in the Oklahoma Police Deferred Option Plan
9 and defer the receipts of benefits in accordance with the provisions
10 of this section.

11 B. For purposes of this section, creditable service shall
12 include service credit reciprocally recognized pursuant to Section
13 50-101 et seq. of this title but for eligibility purposes only.

14 C. The duration of participation in the Oklahoma Police
15 Deferred Option Plan for a member shall not exceed five (5) years.
16 Participation in the Oklahoma Police Deferred Option Plan must begin
17 the first day of a month and end on the last day of a month. At the
18 conclusion of a member's participation in the Oklahoma Police
19 Deferred Option Plan, the member shall terminate employment with all
20 participating municipalities as an officer, and shall start
21 receiving the member's accrued monthly retirement benefit from the
22 System. Such a member may receive in-service distributions of such
23 member's accrued monthly retirement benefit from the System if such

1 member is reemployed by a participating municipality only if such
2 reemployment is as a police chief or in a position not covered under
3 the System.

4 D. When a member begins participation in the Oklahoma Police
5 Deferred Option Plan, the contribution of the employee shall cease.
6 The employer contributions shall continue to be paid in accordance
7 with Section 50-109 of this title. Municipal contributions for
8 employees who elect the Oklahoma Police Deferred Option Plan shall
9 be credited equally to the Oklahoma Police Pension and Retirement
10 System and to the Oklahoma Police Deferred Option Plan. The monthly
11 retirement benefits that would have been payable had the member
12 elected to cease employment and receive a service retirement shall
13 be paid into the Oklahoma Police Deferred Option Plan account.

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

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

22 F. A participant in the Oklahoma Police Deferred Option Plan
23 shall receive, at the option of the participant:

1 1. A lump sum payment from the account equal to the option
2 account balance of the participant, payable to the participant;

3 2. A lump sum payment from the account equal to the option
4 account balance of the participant, payable to the annuity provider
5 which shall be selected by the participant as a result of the
6 research and investigation of the participant; or

7 3. Any other method of payment if approved by the State Board.

8 Notwithstanding any other provision contained herein to the
9 contrary, commencement of distributions under the Oklahoma Police
10 Deferred Option Plan shall be no later than the time as set forth in
11 subsection C of Section 50-114 of this title.

12 G. If the participant dies during the period of participation
13 in the Oklahoma Police Deferred Option Plan, a lump sum payment
14 equal to the account balance of the participant shall be paid in
15 accordance with Section 50-115.2 of this title.

16 H. In lieu of participating in the Oklahoma Police Deferred
17 Option Plan pursuant to subsections A, B, C, D, E and F of this
18 section, a member, except a member whose initial employment and
19 participation in the System occurs on or after November 1, 2011, may
20 make an irrevocable election to participate in the Oklahoma Police
21 Deferred Option Plan pursuant to this subsection as follows:

22 1. For purposes of this subsection, the following definitions
23 shall apply:

- 1 a. "back drop date" means the date selected by the
2 member, which is up to five (5) years before the
3 member elects to participate in the Oklahoma Police
4 Deferred Option Plan, but not before the date at which
5 the member completes twenty (20) years of credited
6 service,
- 7 b. "termination date" means the date the member elects to
8 participate in the Oklahoma Police Deferred Option
9 Plan pursuant to this subsection, and the date the
10 member terminates employment with all participating
11 municipalities as an active police officer, such
12 termination has at all times included reemployment of
13 a member by a participating municipality only if such
14 reemployment is as a police chief or in a position not
15 covered under the System,
- 16 c. "earlier attained credited service" means the credited
17 service earned by a member as of the back drop date,
18 and earlier attained credited service cannot be
19 reduced to less than twenty (20) years of credited
20 service, and
- 21 d. "deferred benefit balance" means all monthly
22 retirement benefits that would have been payable had
23 the member elected to cease employment on the back
24

1 drop date and receive a service retirement from the
2 back drop date to the termination date, all of the
3 member's contributions and one-half (1/2) of the
4 employer contributions from the back drop date to the
5 termination date, with interest based on how the
6 benefit would have accumulated as if the member had
7 participated in the Oklahoma Police Deferred Option
8 Plan pursuant to subsections A, B, C, D and E of this
9 section from the back drop date to the termination
10 date;

11 2. At the termination date, the monthly pension benefit shall
12 be determined based on earlier attained credited service and on the
13 final average salary as of the back drop date. The member's
14 individual deferred option account shall be credited with an amount
15 equal to the deferred benefit balance; the member shall terminate
16 employment with all participating municipalities as a police officer
17 and shall start receiving the member's accrued monthly retirement
18 benefit from the System. The provisions of subsections B, C, E, F
19 and G of this section shall apply to this subsection. A member
20 shall not participate in the Oklahoma Police Deferred Option Plan
21 pursuant to this subsection if the member has elected to participate
22 in the Oklahoma Police Deferred Option Plan pursuant to subsections
23 A, B, C, D, E and F of this section; and

1 3. If a member who has not less than twenty (20) years of
2 creditable service and who is eligible to receive a service
3 retirement pension dies prior to terminating employment, the
4 surviving spouse shall be eligible to elect to receive a benefit
5 determined as if the member had elected to participate in the
6 Oklahoma Police Deferred Option Plan in accordance with this
7 subsection on the day immediately preceding the death. The
8 surviving spouse must have been married to the member for the thirty
9 (30) continuous months preceding the member's death; provided, the
10 surviving spouse of a member who died while in, and as a consequence
11 of, the performance of the member's duty for a participating
12 municipality shall not be subject to the thirty-month marriage
13 requirement for this election.

14 SECTION 11. This act shall become effective November 1, 2011.
15

16 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM AND
17 FINANCIAL SERVICES, dated 02-17-2011 - DO PASS.
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