

**SENATE FLOOR VERSION**

April 9, 2012

ENGROSSED HOUSE  
BILL NO. 2320

By: McDaniel (Randy) and  
Pittman of the House

and

Anderson of the Senate

**[ public retirement systems - Oklahoma Firefighters  
Pension and Retirement System - effective date -  
emergency ]**

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 49-106.1, is  
amended to read as follows:

Section 49-106.1 A. In lieu of terminating employment and  
accepting a service retirement pension pursuant to Sections 49-101  
and 49-106 of this title, any member of the Oklahoma Firefighters  
Pension and Retirement System who has not less than twenty (20)  
years of creditable service and who is eligible to receive a service  
retirement pension may elect to participate in the Oklahoma  
Firefighters Deferred Option Plan and defer the receipts of benefits  
in accordance with the provisions of this section.

1 B. For purposes of this section, creditable service shall  
2 include service credit reciprocally recognized pursuant to Sections  
3 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2  
4 of this title but for eligibility purposes only.

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

17 D. When a member begins participation in the Oklahoma  
18 Firefighters Deferred Option Plan, the contribution of the member  
19 shall cease. The employer contributions shall continue to be paid  
20 in accordance with subsection B of Section 49-122 of this title.  
21 Employer contributions for members who elect the Oklahoma  
22 Firefighters Deferred Option Plan shall be credited equally to the  
23 Oklahoma Firefighters Pension and Retirement System and to the  
24 member's Oklahoma Firefighters Deferred Option Plan account. The

1 monthly retirement benefits that would have been payable had the  
2 member elected to cease employment and receive a service retirement  
3 shall be paid into the member's Oklahoma Firefighters Deferred  
4 Option Plan account.

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

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

15 b. For any period of time beyond the five-year period  
16 authorized by subsection C of this section that the  
17 System allows a member to maintain a Deferred  
18 Retirement Option Plan account for all accounts in  
19 existence prior to July 1, 2012, and for all such  
20 accounts created on or after July 1, 2012, the rate of  
21 interest upon the account balance shall be seven and  
22 five-tenths percent (7.5%) per annum.

23 F. A member in the plan shall receive, at the option of the  
24 member, a lump sum payment from the account equal to the payments to

1 the account or an annuity based upon the account of the member or  
2 may elect any other method of payment if approved by the Board of  
3 Trustees. If a member becomes so physically or mentally disabled  
4 while in, or in consequence of, the performance of his or her duty  
5 as to prevent the effective performance of his or her duties that  
6 the State Board approves an in line of duty disability pension, the  
7 payment from the account shall be an in line of duty disability  
8 payment. Notwithstanding any other provision contained herein to  
9 the contrary, commencement of distributions under the Oklahoma  
10 Firefighters Deferred Option Plan shall be no later than the time as  
11 set forth in subsection B of Section 49-106 of this title.

12 G. If a member dies while maintaining an account balance in the  
13 plan the System shall pay to the designated recipient or recipients  
14 of the member, or if there is no designated recipient or if the  
15 designated recipient predeceases the member, to the spouse of the  
16 member, or if there is no spouse or if the spouse predeceases the  
17 member, to the estate of the member a lump sum payment equal to the  
18 account balance of the member. If such member was receiving, or  
19 eligible to receive, an in line of duty disability pension at the  
20 time of his or her death, payment of the account balance shall be an  
21 in line of duty disability payment. If a designated recipient is  
22 the surviving spouse of the member, the surviving spouse shall  
23 receive his or her portion of the account balance of the member  
24 pursuant to subsection F of this section. The surviving spouse,

1 whether or not he or she is a designated recipient of the member,  
2 may elect to receive his or her portion of the account balance of  
3 the member in the same manner as was applicable to the member.

4 H. In lieu of participating in the Oklahoma Firefighters  
5 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of  
6 this section, a member may elect to participate in the Oklahoma  
7 Firefighters Deferred Option Plan pursuant to this subsection as  
8 follows:

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

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

15 b. "termination date" means the date the member elects to  
16 participate in the Oklahoma Firefighters Deferred  
17 Option Plan pursuant to this subsection, and the date  
18 the member terminates employment with all  
19 participating municipalities as an active firefighter,

20 c. "earlier attained credited service" means the credited  
21 service earned by a member as of the back drop date,  
22 and

23 d. "deferred benefit balance" means all monthly  
24 retirement benefits that would have been payable had

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

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

1 Firefighters Deferred Option Plan pursuant to this subsection if the  
2 member has elected to participate in the Oklahoma Firefighters  
3 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of  
4 this section.

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

8 1. For purposes of this subsection, the following definitions  
9 shall apply:

10 a. "back drop election date" means the date the surviving  
11 spouse or member elects to commence participation in  
12 the Oklahoma Firefighters Deferred Option Plan  
13 pursuant to subsection H of this section and this  
14 subsection,

15 b. "interest" means the actuarial assumed interest rate  
16 as certified by the actuary in the yearly evaluation  
17 report of the actuary,

18 c. "monthly adjustment amount" means the difference  
19 between the monthly pension prior to the back drop  
20 election and the adjusted monthly pension due to the  
21 back drop election,

22 d. "back drop pension adjustment amount" means the sum of  
23 all the monthly adjustment amounts adjusted for  
24

1 interest from the pension commencement date to the  
2 back drop election date, and

3 e. "deferred benefit balance adjustment amount" means the  
4 interest on the deferred benefit balance from the  
5 pension commencement date to the back drop election  
6 date.

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

1 Deferred Option Plan. For purposes of this election, the surviving  
2 spouse must have been married to the firefighter for the thirty (30)  
3 continuous months preceding the firefighter's death; provided, the  
4 surviving spouse of a member who died while in, or as a consequence  
5 of, the performance of the member's duty for a participating  
6 municipality shall not be subject to the marriage limitation for  
7 this election.

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

1 the deferred benefit balance after the adjustment described in this  
2 paragraph is greater than Zero Dollars (\$0.00). The member may only  
3 make this election if the member has not previously elected to  
4 participate in the Oklahoma Firefighters Deferred Option Plan.

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

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

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

19 SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-122, is  
20 amended to read as follows:

21 Section 49-122. A. Each municipality having a paid member of a  
22 fire department shall deduct monthly from the salary of each member  
23 of the fire department of such municipality an amount equal to ~~eight~~  
24 ~~percent (8%)~~ nine percent (9%) of the actual paid gross salary of

1 each member of the fire department. The deduction shall be  
2 considered the minimum deduction. At the option of the  
3 municipality, the municipality may pay all or any part of the  
4 member's required contribution. The treasurer of each municipality  
5 shall deduct the authorized deductions from the salary of each paid  
6 member of the fire department. The treasurer of the municipality  
7 shall deposit within ten (10) days from each ending payroll date in  
8 the System the amount deducted from the salary of each member of the  
9 fire department. Amounts deducted from the salary of a member and  
10 not paid to the System after thirty (30) days from each ending  
11 payroll date shall be subject to a monthly late charge of one and  
12 one-half percent (1 1/2%) of the unpaid balance to be paid by the  
13 municipality to the System.

14 Each municipality shall pick up under the provisions of Section  
15 414(h) (2) of the Internal Revenue Code of 1986, as amended, and pay  
16 the contribution which the member is required by law to make to the  
17 System for all compensation earned after December 31, 1988.

18 Although the contributions so picked up are designated as member  
19 contributions, such contributions shall be treated as contributions  
20 being paid by the municipality in lieu of contributions by the  
21 member in determining tax treatment under the Internal Revenue Code  
22 of 1986, as amended, and such picked up contributions shall not be  
23 includable in the gross income of the member until such amounts are  
24 distributed or made available to the member or the beneficiary of

1 the member. The member, by the terms of this System, shall not have  
2 any option to choose to receive the contributions so picked up  
3 directly and the picked up contributions must be paid by the  
4 municipality to the System.

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

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

16 The treasurer of each municipality shall deduct the picked up  
17 contributions from the salary of each paid member of the fire  
18 department. The treasurer of the municipality shall deposit monthly  
19 in the System the amount picked up from the salary of each member of  
20 the fire department.

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

24

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

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

6 3. Beginning July 1, 1992 through June 30, 1993, eleven percent  
7 (11%) of the total actual paid gross salaries of the members of the  
8 fire department;

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

12 5. Beginning July 1, 1994 through June 30, 1995, twelve percent  
13 (12%) of the total actual paid gross salaries of the members of the  
14 fire department;

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

18 7. Beginning July 1, 1996, through June 30, 2012, thirteen  
19 percent (13%) of the total actual paid gross salaries of the members  
20 of the fire department; and

21 8. Beginning July 1, 2012, and for each fiscal year  
22 thereafter, fourteen percent (14%) of the total actual paid gross  
23 salaries of the members of the fire department.  
24

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

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

12 Any municipality that fails to comply with the provisions of  
13 this section shall not be entitled to its proportionate share of the  
14 Motor Fuel Excise Tax which is received through the Oklahoma Tax  
15 Commission. Any county or municipality may exceed the amount of  
16 contribution required by this section.

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

19 SECTION 3. AMENDATORY 36 O.S. 2011, Section 312.1, is  
20 amended to read as follows:

21 Section 312.1 A. For the fiscal year ending June 30, 2004, the  
22 Insurance Commissioner shall report and disburse one hundred percent  
23 (100%) of the fees and taxes collected under Section 624 of this  
24 title to the State Treasurer to be deposited to the credit of the

1 Education Reform Revolving Fund created pursuant to Section ~~41.29b~~  
2 34.89 of Title 62 of the Oklahoma Statutes. The Insurance  
3 Commissioner shall keep an accurate record of all such funds and  
4 make an itemized statement and furnish same to the State Auditor and  
5 Inspector, as to all other departments of this state. The report  
6 shall be accompanied by an affidavit of the Insurance Commissioner  
7 or the Chief Clerk of such office certifying to the correctness  
8 thereof.

9 B. For the fiscal year beginning July 1, 2006, and for each  
10 fiscal year thereafter, the Insurance Commissioner shall apportion  
11 an amount of the taxes and fees received from Section 624 of this  
12 title, which shall be at least One Million Two Hundred Fifty  
13 Thousand Dollars (\$1,250,000.00) each year, but which shall also be  
14 computed on an annual basis by the Commissioner as the amount of  
15 insurance premium tax revenue loss attributable to the provisions of  
16 subsection H of Section 625.1 of this title and increased if  
17 necessary to reflect the annual computation, and which shall be  
18 apportioned before any other amounts, to the following pension  
19 systems and in the following amounts:

20 1. Sixty-five percent (65%) to the Oklahoma Firefighters  
21 Pension and Retirement Fund in the manner provided for in Sections  
22 49-119, 49-120 and 49-123 of Title 11 of the Oklahoma Statutes;  
23  
24

1        2. Twenty-six percent (26%) to the Oklahoma Police Pension and  
2 Retirement System pursuant to the provisions of Sections 50-101  
3 through 50-136 of Title 11 of the Oklahoma Statutes; and

4        3. Nine percent (9%) to the Law Enforcement Retirement Fund.

5        C. After the apportionment required by subsection B of this  
6 section, for the fiscal years beginning July 1, 2004, and ending  
7 June 30, 2009, the Insurance Commissioner shall report and disburse  
8 all of the fees and taxes collected under Section 624 of this title  
9 and Section 2204 of this title, and the same are hereby apportioned  
10 as follows:

11        1. Thirty-four percent (34%) of the taxes collected on premiums  
12 shall be allocated and disbursed for the Oklahoma Firefighters  
13 Pension and Retirement Fund, in the manner provided for in Sections  
14 49-119, 49-120 and 49-123 of Title 11 of the Oklahoma Statutes;

15        2. Seventeen percent (17%) of the taxes collected on premiums  
16 shall be allocated and disbursed to the Oklahoma Police Pension and  
17 Retirement System pursuant to the provisions of Sections 50-101  
18 through 50-136 of Title 11 of the Oklahoma Statutes;

19        3. Six and one-tenth percent (6.1%) of the taxes collected on  
20 premiums shall be allocated and disbursed to the Law Enforcement  
21 Retirement Fund; and

22        4. All the balance and remainder of the taxes and fees provided  
23 in Section 624 of this title shall be paid to the State Treasurer to  
24 the credit of the General Revenue Fund of the state to provide

1 revenue for general functions of state government. The Insurance  
2 Commissioner shall keep an accurate record of all such funds and  
3 make an itemized statement and furnish same to the State Auditor and  
4 Inspector, as to all other departments of this state. The report  
5 shall be accompanied by an affidavit of the Insurance Commissioner  
6 or the Chief Clerk of such office certifying to the correctness  
7 thereof.

8 D. After the apportionment required by subsection B of this  
9 section, for the fiscal year ending June 30, ~~2010~~ 2013, and for each  
10 fiscal year thereafter the Insurance Commissioner shall report and  
11 disburse all of the fees and taxes collected under Section 624 of  
12 this title and Section 2204 of this title, and the same are hereby  
13 apportioned as follows:

14 1. ~~Thirty-four percent (34%)~~ Thirty-six percent (36%) of the  
15 taxes collected on premiums shall be allocated and disbursed for the  
16 Oklahoma Firefighters Pension and Retirement Fund, in the manner  
17 provided for in Sections 49-119, 49-120 and 49-123 of Title 11 of  
18 the Oklahoma Statutes;

19 2. Fourteen percent (14%) of the taxes collected on premiums  
20 shall be allocated and disbursed to the Oklahoma Police Pension and  
21 Retirement System pursuant to the provisions of Sections 50-101  
22 through 50-136 of Title 11 of the Oklahoma Statutes;

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1       3. Five percent (5%) of the taxes collected on premiums shall  
2 be allocated and disbursed to the Law Enforcement Retirement Fund;  
3 and

4       4. All the balance and remainder of the taxes and fees provided  
5 in Section 624 of this title shall be paid to the State Treasurer to  
6 the credit of the General Revenue Fund of the state to provide  
7 revenue for general functions of state government. The Insurance  
8 Commissioner shall keep an accurate record of all such funds and  
9 make an itemized statement and furnish same to the State Auditor and  
10 Inspector, as to all other departments of this state. The report  
11 shall be accompanied by an affidavit of the Insurance Commissioner  
12 or the Chief Clerk of such office certifying to the correctness  
13 thereof.

14       E. The disbursements provided for in subsections A, B, C and D  
15 of this section shall be made monthly. The Insurance Commissioner  
16 shall report annually to the Governor, the Speaker of the House of  
17 Representatives, the President Pro Tempore of the Senate and the  
18 State Auditor and Inspector, the amounts collected and disbursed  
19 pursuant to this section.

20       F. Notwithstanding any other provision of law to the contrary,  
21 no tax credit authorized by law enacted on or after July 1, 2008,  
22 which may be used to reduce any insurance premium tax liability  
23 shall be used to reduce the amount of insurance premium tax revenue  
24 apportioned to the Oklahoma Firefighters Pension and Retirement

1 System, the Oklahoma Police Pension and Retirement System or the  
2 Oklahoma Law Enforcement Retirement System.

3 SECTION 4. This act shall become effective July 1, 2012.

4 SECTION 5. It being immediately necessary for the preservation  
5 of the public peace, health and safety, an emergency is hereby  
6 declared to exist, by reason whereof this act shall take effect and  
7 be in full force from and after its passage and approval.

8 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-4-12 - DO  
9 PASS, As Amended.

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