STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2024 By: Barrington of the Senate

and

Armes of the House

COMMITTEE SUBSTITUTE

An Act relating to The Oklahoma Firefighters Pension and Retirement System; amending 11 O.S. 2011, Section 49-100.8, as amended by Section 48, Chapter 304, O.S.L. 2012 (11 O.S. Supp. 2013, Section 49-100.8), which relates to the amortization of the unfunded liability of the system; modifying start date for amortization of certain liabilities; amending 11 O.S. 2011, Section 49-113.2, which relates to death benefits; removing requirement that the System request an opinion from the Internal Revenue Service for federal income tax treatment of certain benefits; amending 11 O.S. 2011, Section 49-117.1, as last amended by Section 8, Chapter 388, O.S.L. 2013 (11 O.S. Supp. 2013, Section 49-117.1) which relates to termination of service prior to normal retirement date; clarifying the method for calculating certain retirement annuity; amending 11 O.S. 2011, Section 49-135, which relates to retirement eligibility; modifying the age certain firefighters are eligible to retire; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 49-100.8, as amended by Section 48, Chapter 304, O.S.L. 2012 (11 O.S. Supp. 2013, Section 49-100.8), is amended to read as follows:

Section 49-100.8. The State Board shall certify to the Director of the Office of Management and Enterprise Services, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate, on or before July 15 of each year, an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the System to pay by level-dollar payments all liabilities which shall exist or accrue pursuant to the provisions of the System, including amortization of the unfunded accrued liability over a period of not to exceed thirty (30) years beginning July 1, ~~2003~~ 2014.

SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-113.2, is amended to read as follows:

Section 49-113.2. A. Upon the death of an active or retired member, the System shall pay to the surviving spouse of the member if the surviving spouse has been married to the firefighter for thirty (30) continuous months preceding the member's death provided a surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for a participating municipality shall not be subject to the marriage limitation for survivor benefits, or if there is no surviving spouse or no surviving spouse meeting the requirements of this section, the

System shall pay to the designated recipient or recipients of the member, or if there is no designated recipient or if the designated recipient predeceases the member, to the estate of the member, the sum of Four Thousand Dollars ($4,000.00) for those active or retired members who died prior to July 1, 1999. For those active or retired members who die on or after July 1, 1999, the sum shall be Five Thousand Dollars ($5,000.00). ~~The benefit payable pursuant to this subsection shall be deemed, for purposes of federal income taxation, as life insurance proceeds and not as a death benefit if the Internal Revenue Service approves this provision pursuant to a private letter ruling request which shall be submitted by the board of trustees of the System for that purpose.~~

B. Upon the death of a member who dies leaving no living designated recipient or having designated the member's estate as recipient, the System may pay any applicable death benefit which may be subject to probate, in an amount of Five Thousand Dollars ($5,000.00), to the heir or heirs of the member without the intervention of a probate court or probate procedures.

C. Before any applicable probate procedure may be waived, the System must be in receipt of the member's proof of death and the following documents from those persons claiming to be the legal heirs of the deceased member:

1. The member's last will and testament if available;

2. An affidavit or affidavits of heirship which must contain:

a. the names and signatures of all claiming heirs to the deceased member's estate including the claiming heirs' names, relationship to the deceased member, current addresses and current telephone numbers,

b. a statement or statements by the claiming heirs that no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction,

c. a statement that the value of the deceased member's entire probate estate, less liens and encumbrances, does not exceed Ten Thousand Dollars ($10,000.00), including the payment of benefits from the System, and

d. a statement by each individual claiming heir identifying the amount of personal property that the heir is claiming from the System or the amount the heir agrees to be paid to another person, and that the heir has been notified of, is aware of and consents to the identified claims of all the other claiming heirs of the deceased member pending with the System;

3. A written agreement or agreements signed by all claiming heirs of the deceased member which provides that the claiming heirs release, discharge and hold harmless the System from any and all liability, obligations and costs which it may incur as a result of making a payment to any of the deceased member's heirs;

4. A corroborating affidavit from an individual other than a claiming heir, who was familiar with the affairs of the deceased member; and

5. Proof that funeral and burial expenses of the deceased member have been paid or provided for.

D. The System shall retain complete discretion in determining which requests for probate waiver may be granted or denied, for any reason. Should the System have any questions as to the validity of any document presented by the claiming heirs, or as to any statement or assertion contained therein, the probate requirements provided for in Section 1 et seq. of Title 58 of the Oklahoma Statutes shall not be waived.

E. After paying any death benefits to any claiming heirs as provided pursuant to this section, the System is discharged and released from any and all liability, obligation and costs to the same extent as if the System had paid a personal representative holding valid letters testamentary issued by a court of competent jurisdiction. The System is not required to inquire into the truth of any matter specified in this section or into the payment of any estate tax liability.

F. The provisions of this section shall not be subject to qualified domestic orders as provided in subsection B of Section 49-126 of this title.

G. 1. For purposes of this section, if a person makes a qualified disclaimer with respect to the death benefit provided for in subsection A of this section, this section shall apply with respect to such death benefit as if the death benefit had never been transferred to such person.

2. For purposes of this subsection, the term "qualified disclaimer" means an irrevocable and unqualified refusal by a person, including but not limited to the surviving spouse of the deceased member, to accept an interest in the death benefit provided for in subsection A of this section, but only if:

a. such refusal is in writing,

b. such writing is received by the System not later than the date which is nine (9) months after the date of death of the deceased member,

c. such person has not accepted the death benefit provided for in subsection A of this section, and

d. as a result of such refusal, the death benefit provided for in subsection A of this section passes without any direction on the part of the person making the disclaimer and passes first, to the organization providing funeral and burial services for the deceased member or, if the cost of the funeral and burial services for the deceased member has already been paid, to the person or persons other than the person

making the disclaimer as further provided for in this section.

SECTION 3. AMENDATORY 11 O.S. 2011, Section 49-117.1, as last amended by Section 8, Chapter 388, O.S.L. 2013 (11 O.S. Supp. 2013, Section 49-117.1), is amended to read as follows:

Section 49-117.1. A. A member who terminates service before normal retirement date, other than by death or disability shall, upon application filed with the State Board, be refunded from the Fund an amount equal to the accumulated contributions the member has made to the Fund, but excluding any interest or any amount contributed by the municipality or state.

B. If a member, whose first employment with a participating employer of the System occurs prior to November 1, 2013, has completed ten (10) years of credited service at the date of termination, the member may elect a vested benefit in lieu of receiving the member's accumulated contributions.

C. If a member whose first employment with a participating employer of the System occurs on or after November 1, 2013, has completed eleven (11) years of credited service at the date of termination, the member may elect a vested benefit in lieu of receiving the member's accumulated contributions.

D. If the member who has completed ten (10) or more years of credited service as prescribed by subsection B of this section elects the vested benefit, the member shall be entitled to a monthly

retirement annuity commencing on the date the member reaches fifty (50) years of age or the date the member would have had twenty (20) years of credited service had the member's employment continued uninterrupted, whichever is later. The annual amount of such retirement annuity shall be equal to two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of credited service not to exceed thirty (30) years. The death benefits provided for in Section 49-113.2 of this title shall not apply to any member retiring under the provisions of this section.

E. If the member who has completed eleven (11) or more years of credited service as prescribed by subsection C of this section elects the vested benefit, the member shall be entitled to a monthly retirement annuity commencing on the date the member reaches fifty (50) years of age or the date the member would have had twenty-two (22) years of credited service had the member's employment continued uninterrupted, whichever is later. The annual amount of such retirement annuity shall be equal to two and one-half percent (2 1/2%) of <u>the annualized</u> final average salary multiplied by the number of years of credited service not to exceed thirty (30) years. The death benefits provided for in Section 49-113.2 of this title shall not apply to any member retiring under the provisions of this section.

F. If a member who terminates employment and elects a vested benefit dies prior to being eligible to receive benefits, the

member's beneficiary shall be entitled to the member's normal monthly retirement benefit on the date the deceased member would have been eligible to receive the benefit.

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

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

I. A firefighter shall not be permitted to withdraw from the System while employed as a firefighter in a participating municipality.

SECTION 4. AMENDATORY 11 O.S. 2011, Section 49-135, is amended to read as follows:

Section 49-135. No person shall be employed in a fire department who has reached the age of forty-five (45) years, unless it appears he <u>or she</u> shall become eligible for retirement at the age

of sixty-five (65) years, or at the age of sixty-seven (67) years for a firefighter whose first service with a participating employer of the System occurs on or after November 1, 2013, or unless he or she be retired from a municipal fire department in the State of Oklahoma. This section shall not apply to professional engineers, or to persons employed as technical specialists on a temporary basis. The State Board shall be authorized to establish the maximum age, within the limits herein prescribed, over which an applicant may not be considered for initial employment, but no person shall be prohibited from making application for reemployment and having such reemployment application considered merely because of his or her age, provided that such person be under the age of forty-five (45) years, and provided further, that such reemployment shall be with the consent of the fire chief of such municipality.

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

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