

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL 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:

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

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

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

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

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

13 B. Upon the death of a member who dies leaving no living
14 designated recipient or having designated the member's estate as
15 recipient, the System may pay any applicable death benefit which may
16 be subject to probate, in an amount of Five Thousand Dollars
17 (\$5,000.00), to the heir or heirs of the member without the
18 intervention of a probate court or probate procedures.

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

- 23 1. The member's last will and testament if available;
- 24 2. An affidavit or affidavits of heirship which must contain:

- 1 a. the names and signatures of all claiming heirs to the
2 deceased member's estate including the claiming heirs'
3 names, relationship to the deceased member, current
4 addresses and current telephone numbers,
- 5 b. a statement or statements by the claiming heirs that no
6 application or petition for the appointment of a
7 personal representative is pending or has been granted
8 in any jurisdiction,
- 9 c. a statement that the value of the deceased member's
10 entire probate estate, less liens and encumbrances,
11 does not exceed Ten Thousand Dollars (\$10,000.00),
12 including the payment of benefits from the System, and
- 13 d. a statement by each individual claiming heir
14 identifying the amount of personal property that the
15 heir is claiming from the System or the amount the heir
16 agrees to be paid to another person, and that the heir
17 has been notified of, is aware of and consents to the
18 identified claims of all the other claiming heirs of
19 the deceased member pending with the System;

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

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

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

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

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

21 F. The provisions of this section shall not be subject to
22 qualified domestic orders as provided in subsection B of Section 49-
23 126 of this title.

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

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

- 11 a. such refusal is in writing,
- 12 b. such writing is received by the System not later than
13 the date which is nine (9) months after the date of
14 death of the deceased member,
- 15 c. such person has not accepted the death benefit
16 provided for in subsection A of this section, and
- 17 d. as a result of such refusal, the death benefit
18 provided for in subsection A of this section passes
19 without any direction on the part of the person making
20 the disclaimer and passes first, to the organization
21 providing funeral and burial services for the deceased
22 member or, if the cost of the funeral and burial
23 services for the deceased member has already been
24 paid, to the person or persons other than the person

1 making the disclaimer as further provided for in this
2 section.

3 SECTION 3. AMENDATORY 11 O.S. 2011, Section 49-117.1, as
4 last amended by Section 8, Chapter 388, O.S.L. 2013 (11 O.S. Supp.
5 2013, Section 49-117.1), is amended to read as follows:

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

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

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

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

1 retirement annuity commencing on the date the member reaches fifty
2 (50) years of age or the date the member would have had twenty (20)
3 years of credited service had the member's employment continued
4 uninterrupted, whichever is later. The annual amount of such
5 retirement annuity shall be equal to two and one-half percent (2
6 1/2%) of final average salary multiplied by the number of years of
7 credited service not to exceed thirty (30) years. The death
8 benefits provided for in Section 49-113.2 of this title shall not
9 apply to any member retiring under the provisions of this section.

10 E. If the member who has completed eleven (11) or more years of
11 credited service as prescribed by subsection C of this section
12 elects the vested benefit, the member shall be entitled to a monthly
13 retirement annuity commencing on the date the member reaches fifty
14 (50) years of age or the date the member would have had twenty-two
15 (22) years of credited service had the member's employment continued
16 uninterrupted, whichever is later. The annual amount of such
17 retirement annuity shall be equal to two and one-half percent (2
18 1/2%) of the annualized final average salary multiplied by the
19 number of years of credited service not to exceed thirty (30) years.
20 The death benefits provided for in Section 49-113.2 of this title
21 shall not apply to any member retiring under the provisions of this
22 section.

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

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

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

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

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

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

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

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

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

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