

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

HOUSE BILL 1251

By: Martin (Steve)

AS INTRODUCED

An Act relating to the Oklahoma Firefighters Pension and Retirement System; amending 11 O.S. 2011, Section 49-106.1, which relates to Deferred Retirement Options; modifying language; providing an effective date; and declaring an 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~~ Instead 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.

B. For purposes of this section, creditable service shall include service credit reciprocally recognized pursuant to Sections

1 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2
2 of this title but for eligibility purposes only.

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

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

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 may elect to participate in the Oklahoma
20 Firefighters Deferred Option Plan pursuant to this subsection as
21 follows:

22 1. For purposes of this subsection and subsection I of this
23 section, the following definitions shall apply:
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- 1 a. "back drop date" means the member's normal retirement
2 date or the date five (5) years before the member
3 elects to participate in the Oklahoma Firefighters
4 Deferred Option Plan, whichever date is later,
- 5 b. "termination date" means the date the member elects to
6 participate in the Oklahoma Firefighters Deferred
7 Option Plan pursuant to this subsection, and the date
8 the member terminates employment with all
9 participating municipalities as an active firefighter,
- 10 c. "earlier attained credited service" means the credited
11 service earned by a member as of the back drop date,
12 and
- 13 d. "deferred benefit balance" means all monthly
14 retirement benefits that would have been payable had
15 the member elected to cease employment on the back
16 drop date and receive a service retirement from the
17 back drop date to the termination date, all the
18 member's contributions and one-half (1/2) of the
19 employer contributions from the back drop date to the
20 termination date, with interest based on how the
21 benefit would have accumulated on a compound annual
22 basis as if the member had participated in the
23 Oklahoma Firefighters Deferred Option Plan pursuant to
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1 subsections A, B, C, D, E and F of this section from
2 the back drop date to the termination date; and

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

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

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

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

21 2. If a member who has more than twenty (20) years of
22 creditable service and is eligible to receive a service retirement
23 pension dies on or after June 4, 2007, and prior to terminating
24 employment, the member's surviving spouse shall be eligible to elect

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

22 3. If a member has more than twenty (20) years of creditable
23 service and is eligible for a retirement for disability monthly
24 pension pursuant to Section 49-109 of this title on or after June 4,

1 2007, such member shall be eligible to elect to receive a benefit
2 determined as if the member had elected to participate in the
3 Oklahoma Firefighters Deferred Option Plan, in accordance with
4 subsection H of this section, on the day immediately preceding the
5 date of the member's disability retirement, provided such election
6 is made within two (2) years from the date of the member's
7 disability retirement. The disability monthly pension such member
8 is receiving, or entitled to receive, shall be adjusted in
9 accordance with the provisions of subsection H of this section to
10 account for the member's participation in the Oklahoma Firefighters
11 Deferred Option Plan. The deferred benefit balance such member is
12 entitled to receive shall be reduced by the back drop pension
13 adjustment amount and increased by the deferred benefit balance
14 adjustment amount. The member may only make a back drop election if
15 the deferred benefit balance after the adjustment described in this
16 paragraph is greater than Zero Dollars (\$0.00). The member may only
17 make this election if the member has not previously elected to
18 participate in the Oklahoma Firefighters Deferred Option Plan.

19 4. If a member has more than twenty (20) years of creditable
20 service and filed a grievance for wrongful termination occurring on
21 or after June 4, 2007, but is not reinstated as an active member,
22 such member shall be eligible to elect to receive a benefit
23 determined as if the member had elected to participate in the
24 Oklahoma Firefighters Deferred Option Plan in accordance with

1 subsection H of this section on the day immediately preceding the
2 date of the member's termination. Such election must be made within
3 two (2) years from the date of the member's termination as an active
4 member and, if the member's case pertaining to the member's
5 termination is on appeal to a court of competent jurisdiction,
6 within such period set by the State Board in its sole discretion.
7 The monthly pension such member is receiving, or entitled to
8 receive, shall be adjusted in accordance with the provisions of
9 subsection H of this section to account for the member's
10 participation in the Oklahoma Firefighters Deferred Option Plan.
11 The deferred benefit balance such member is entitled to receive
12 shall be reduced by the back drop pension adjustment amount and
13 increased by the deferred benefit balance adjustment amount. The
14 member may only make a back drop election if the deferred benefit
15 balance after the adjustment described in this paragraph is greater
16 than Zero Dollars (\$0.00). The member may only make this election
17 if the member has not previously elected to participate in the
18 Oklahoma Firefighters Deferred Option Plan.

19 5. Subparagraphs d and e of paragraph 1 and paragraphs 3 and 4
20 of this subsection are effective June 4, 2007, provided the Internal
21 Revenue Service issues a favorable determination letter for the
22 System which includes the provisions of such subparagraphs and
23 paragraphs without modification or as modified to conform to any
24 changes required by the Internal Revenue Service as part of its

1 determination letter review process. In the event the Internal
2 Revenue Service does not issue such a determination letter which
3 includes the provisions of such subparagraphs or paragraphs without
4 modification or as modified to conform to any changes required by
5 the Internal Revenue Service as part of its determination letter
6 review process, then subparagraphs d and e of paragraph 1 and
7 paragraphs 3 and 4 of this subsection shall be repealed effective
8 June 4, 2007.

9 SECTION 2. This act shall become effective July 1, 2013.

10 SECTION 3. It being immediately necessary for the preservation
11 of the public peace, health and safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

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15 54-1-5749 MAH 12/28/12

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January 7, 2013

Representative Steve Martin
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Re: RBH No. 5749

RBH No. 5749 is a shell bill dealing with the Oklahoma Firefighters Pension and Retirement System Deferred Option Plan.

RBH No. 5749 is a nonfiscal retirement bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act.

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