STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 2078

By: McDaniel (Randy) of the House

and

Mazzei of the Senate

COMMITTEE SUBSTITUTE

An Act relating to retirement systems; amending 11 O.S. 2011, Sections 49-100.1, as amended by Section 1, Chapter 364, O.S.L. 2012, 49-106.1, 49-117.1 and 49-122 (11 O.S. Supp. 2012, Section 49-100.1), which relate to the Oklahoma Firefighters Pension and Retirement System; modifying date of retirement for members beginning employment after certain date; providing that members beginning employment after certain date may participate in deferred option plan after a certain number of years of service; specifying how interest is to be earned on benefits placed into certain plan; providing for payment of certain administrative fee; allowing members who enter the System after certain date to receive a vested benefit in lieu of accumulated contributions upon termination of service; establishing benefit for members who enter service after certain date and elect to receive a vested benefit in lieu of accumulated contributions; increasing the minimum member contribution; increasing the contribution rate paid by municipalities to the System; amending 36 O.S. 2011, Section 312.1, which relates to apportionment of the insurance premium tax; increasing the percentage of certain tax which is allocated to the Oklahoma Firefighters Pension and Retirement Fund; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 49-100.1, as amended by Section 1, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2012, Section 49-100.1), is amended to read as follows:

Section 49-100.1. As used in this article:

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

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

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

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

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

6. "Member" means all eligible firefighters of a participating municipality or a fire protection district who perform the essential functions of fire suppression, prevention, and life safety duties in a fire department. The term "member" shall include but not be limited to the person serving as fire chief of any participating municipality, provided that a person serving as fire chief of a participating municipality shall meet the age, agility, physical and other eligibility requirements required by law at the time said person becomes a member of the System. Effective July 1, 1987, a

member does not include a "leased employee". The term "leased employee" means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Section 414(n)(6) of the Internal Revenue Code of 1986, as amended) on a substantially full-time basis for a period of at least one (1) year, and such services are performed under primary direction or control by the recipient. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer. A leased employee shall not be considered an employee of the recipient if the requirements of the safe harbor provisions of Section 414(n)(5) of the Internal Revenue Code of 1986, as amended, are satisfied. Effective July 1, 1999, any individual who agrees with the participating municipality that the individual's services are to be performed as a leased employee or an independent contractor shall not be a member regardless of any classification as a common law employee by the Internal Revenue Service or any other governmental agency, or any court of competent jurisdiction;

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

following the date the member completes twenty (20) years of credited service. For a member whose first employment with a participating employer of the System occurs on or after November 1, 2013, such date shall be the first day following the date the member completes twenty-two (22) years of credited service and has attained the age of at least fifty (50) years. If the member's employment continues past the normal retirement date of the member, the actual retirement date of the member shall be the first day following the date the member terminates employment with more than twenty (20) years of credited service, or with respect to members who are required to complete twenty-two (22) years of service, the first day following the date the member terminates employment with more than twenty-two (22) years of service and who has also attained the age of at least fifty (50) years;

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

9. "Participating municipality" means a municipality, county fire department organized pursuant to subsection D of Section 351 of Title 19 of the Oklahoma Statutes, or fire protection district which is making contributions to the System on behalf of its firefighters. All participating municipalities shall appoint a fire chief who shall supervise and administer the fire department;

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

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

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

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

14. "Final average salary" means the average paid gross salary of the firefighter for normally scheduled hours over the highest salaried thirty (30) consecutive months of the last sixty (60) months of credited service. Gross salary shall not include payment for accumulated sick or annual leave upon termination of employment,

any uniform allowances or any other compensation for reimbursement of out-of-pocket expenses. Only salary on which the required contributions have been made may be used in computing the final average salary. Effective January 1, 1988, gross salary shall include any amount of elective salary reduction under Section 125 of the Internal Revenue Code of 1986, as amended. Gross salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986, as amended, and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986, as amended. Effective July 1, 1998, for purposes of determining a member's compensation, any contribution by the member to reduce the member's regular cash remuneration under 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be treated as if the member did not make such an election. Only salary on which required contributions have been made may be used in computing final average salary.

In addition to other applicable limitations, and notwithstanding any other provision to the contrary, for plan years beginning on or after July 1, 2002, the annual gross salary of each "Noneligible Member" taken into account under the System shall not exceed the Economic Growth and Tax Relief Reconciliation Act of 2001("EGTRRA") annual salary limit. The EGTRRA annual salary limit is Two Hundred Thousand Dollars ($200,000.00), as adjusted by the Commissioner for increases in the cost of living in accordance with Section

401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The annual salary limit in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which salary is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the EGTRRA salary limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12). For purposes of this subsection, a "Noneligible Member" is any member who first became a member during a plan year commencing on or after July 1, 1996.

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

Effective June 9, 2010, gross salary shall also include gross salary, as described above, for services, but paid by the later of two and one-half (2 1/2) months after a firefighter's severance from employment or the end of the calendar year that includes the date the firefighter terminated employment, if it is a payment that, absent a severance from employment, would have been paid to the firefighter while the firefighter continued in employment with the participating municipality.

Effective June 9, 2010, any payments not described above shall not be considered gross salary if paid after severance from employment, even if they are paid by the later of two and one-half (2 1/2) months after the date of severance from employment or the end of the calendar year that includes the date of severance from employment, except payments to an individual who does not currently perform services for the participating municipality by reason of qualified military service within the meaning of Section 414(u)(5) of the Internal Revenue Code of 1986, as amended, to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the participating municipality rather than entering qualified military service.

Effective June 9, 2010, back pay, within the meaning of Section 1.415(c)-2(g)(8) of the Income Tax Regulations, shall be treated as gross salary for the year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included in this definition.

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

15. "Accrued retirement benefit" means two and one-half percent (2 1/2%) of the firefighter's final average salary multiplied by the member's years of credited service not to exceed thirty (30) years;

16. "Beneficiary" means a member's surviving spouse or any surviving children, including biological and adopted children, at the time of the member's death. The surviving spouse must have been married to the firefighter for the thirty (30) continuous months preceding the firefighter'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. A surviving child of a member shall be a beneficiary until reaching eighteen (18) years of age or twenty-two (22) years of age if the child is enrolled full time and regularly attending a public or private school or any institution of higher education. Any child adopted by a member after the member's retirement shall be a beneficiary only if the child is adopted by the member for the thirty (30) continuous months preceding the member's death. Any child who is adopted by a member after the member's retirement and such member dies accidentally or as a consequence of the performance of the member's duty as a firefighter shall not be subject to the thirty-month adoption requirement. This definition of beneficiary shall be in addition to any other requirement set forth in this article;

17. "Accumulated contributions" means the sum of all contributions made by a member to the System and includes both contributions deducted from the compensation of a member and

contributions of a member picked up and paid by the participating municipality of the member. Accumulated contributions shall not include any interest on the contributions of the member, interest on any amount contributed by the municipality or state and any amount contributed by the municipality or state; and

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

SECTION 2. 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 serving as an active firefighter in a fire department of a participating municipality who has not less than twenty (20) years of creditable service, or any member of the Oklahoma Firefighters Pension and Retirement System whose first employment with a participating employer of the System occurs on or after November 1, 2013, and who has not less than twenty-two (22) 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 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2 of this title but for eligibility purposes only.

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

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

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

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

3. Effective November 1, 2013, a member whose first service with a participating municipality of the System occurs on or after November 1, 2013, and who participates for the first time in the Deferred Retirement Option Plan on or after November 1, 2013, and who elects to receive any other method of payment as approved by the Board of Trustees, after completion of participation in the Deferred Retirement Option Plan, shall earn interest at a rate equal to the actual rate of return of the investment portfolio of the System, less a minimum of one percentage point to offset administrative costs of the System as determined by the System. A retired member may leave his or her balance in the Deferred Retirement Option Plan account until the age of seventy and one-half (70 1/2) years, at

which time the retired member shall withdraw his or her entire Deferred Retirement Option Plan account balance.

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

G. If a member dies while maintaining an account balance in the plan 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 spouse of the member, or if there is no spouse or if the spouse predeceases the member, to the estate of the member a lump-sum payment equal to the account balance of the member. If such member was receiving, or eligible to receive, an in-line-of-duty disability pension at the time of his or her death, payment of the account balance shall be an in-line-of-duty disability payment. If a designated recipient is the surviving spouse of the member, the surviving spouse shall receive his or her portion of the account balance of the member pursuant to subsection F of this section. The surviving spouse, whether or not he or she is a designated recipient of the member, may elect to receive his or her portion of the account balance of the member in the same manner as was applicable to the member.

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

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

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

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

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

d. "deferred benefit balance" means all monthly retirement benefits that would have been payable had the member elected to cease employment on the back drop date and receive a service retirement from the back drop date to the termination date, all the member's contributions and one-half (1/2) of the employer contributions from the back drop date to the termination date, with interest based on how the benefit would have accumulated on a compound annual basis as if the member had participated in the Oklahoma Firefighters Deferred Option Plan pursuant to subsections A, B, C, D, E and F of this section from the back drop date to the termination date; and

2. At the termination date, the monthly pension benefit shall be determined based on earlier attained credited service and on the final average salary as of the back drop date. The member's individual deferred option account shall be credited with an amount equal to the deferred benefit balance, the member shall terminate employment with all participating municipalities as a firefighter, and shall start receiving the member's accrued monthly retirement benefit from the System. Such a member may be reemployed by a

participating municipality but only in a position not covered under the System, and receive in-service distributions of such member's accrued monthly retirement benefit from the System. The provisions of subsections B, C, E, F and G of this section shall apply to this subsection. A member shall not participate in the Oklahoma Firefighters Deferred Option Plan pursuant to this subsection if the member has elected to participate in the Oklahoma Firefighters Deferred Option Plan pursuant to subsections A, B, C, D, E and F of this section.

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

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

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

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

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

d. "back drop pension adjustment amount" means the sum of all the monthly adjustment amounts adjusted for interest from the pension commencement date to the back drop election date, and

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

2. If a member who has more than twenty (20) years of creditable service and is eligible to receive a service retirement pension dies on or after June 4, 2007, and prior to terminating employment, the member's surviving spouse shall be eligible to elect to receive a benefit determined as if the member had elected to participate in the Oklahoma Firefighters Deferred Option Plan in accordance with subsection H of this section on the day immediately preceding such member's death. Prior to July 1, 2010, the surviving spouse must make any such election within one (1) year from the date of the member's death. Effective July 1, 2010, the surviving spouse must make any such election within ninety (90) days from the date of the member's death. If on or after June 4, 2007, such election is made, the monthly pension such surviving spouse is entitled to receive shall be adjusted in accordance with the provisions of

subsection H of this section to account for the member's participation in the Oklahoma Firefighters Deferred Option Plan. The surviving spouse may only make this election if the member has not previously elected to participate in the Oklahoma Firefighters Deferred Option Plan. For purposes of this election, the surviving spouse must have been married to the firefighter for the thirty (30) continuous months preceding the firefighter's death; provided, the 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 this election.

3. If a member has more than twenty (20) years of creditable service and is eligible for a retirement for disability monthly pension pursuant to Section 49-109 of this title on or after June 4, 2007, such member shall be eligible to elect to receive a benefit determined as if the member had elected to participate in the Oklahoma Firefighters Deferred Option Plan, in accordance with subsection H of this section, on the day immediately preceding the date of the member's disability retirement, provided such election is made within two (2) years from the date of the member's disability retirement. The disability monthly pension such member is receiving, or entitled to receive, shall be adjusted in accordance with the provisions of subsection H of this section to account for the member's participation in the Oklahoma Firefighters

Deferred Option Plan. The deferred benefit balance such member is entitled to receive shall be reduced by the back drop pension adjustment amount and increased by the deferred benefit balance adjustment amount. The member may only make a back drop election if the deferred benefit balance after the adjustment described in this paragraph is greater than Zero Dollars ($0.00). The member may only make this election if the member has not previously elected to participate in the Oklahoma Firefighters Deferred Option Plan.

4. If a member has more than twenty (20) years of creditable service and filed a grievance for wrongful termination occurring on or after June 4, 2007, but is not reinstated as an active member, such member shall be eligible to elect to receive a benefit determined as if the member had elected to participate in the Oklahoma Firefighters Deferred Option Plan in accordance with subsection H of this section on the day immediately preceding the date of the member's termination. Such election must be made within two (2) years from the date of the member's termination as an active member and, if the member's case pertaining to the member's termination is on appeal to a court of competent jurisdiction, within such period set by the State Board in its sole discretion. The monthly pension such member is receiving, or entitled to receive, shall be adjusted in accordance with the provisions of subsection H of this section to account for the member's participation in the Oklahoma Firefighters Deferred Option Plan.

The deferred benefit balance such member is entitled to receive shall be reduced by the back drop pension adjustment amount and increased by the deferred benefit balance adjustment amount. The member may only make a back drop election if the deferred benefit balance after the adjustment described in this paragraph is greater than Zero Dollars ($0.00). The member may only make this election if the member has not previously elected to participate in the Oklahoma Firefighters Deferred Option Plan.

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

SECTION 3. AMENDATORY 11 O.S. 2011, 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, other than 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. The death benefits provided for in this article 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 final average salary multiplied by the number of years of credited service. The death benefits provided for in this article 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 49-122, is amended to read as follows:

Section 49-122. A. Each municipality having a paid member of a fire department shall deduct monthly from the salary of each member of the fire department of such municipality an amount equal to ~~eight percent (8%)~~ nine percent (9%) of the actual paid gross salary of each member of the fire department. The deduction shall be considered the minimum deduction. At the option of the municipality, the municipality may pay all or any part of the member's required contribution. The treasurer of each municipality shall deduct the authorized deductions from the salary of each paid member of the fire department. The treasurer of the municipality shall deposit within ten (10) days from each ending payroll date in the System the amount deducted from the salary of each member of the fire department. Amounts deducted from the salary of a member and not paid to the System after thirty (30) days from each ending payroll date shall be subject to a monthly late charge of one and one-half percent (1 1/2%) of the unpaid balance to be paid by the municipality to the System.

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

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

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

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

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

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

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

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

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

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

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

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

8. Beginning November 1, 2013, fourteen percent (14%) of the total actual paid gross salaries of the members of the fire department.

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

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

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

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

SECTION 5. AMENDATORY 36 O.S. 2011, Section 312.1, is amended to read as follows:

Section 312.1. A. For the fiscal year ending June 30, 2004, the Insurance Commissioner shall report and disburse one hundred percent (100%) of the fees and taxes collected under Section 624 of this title to the State Treasurer to be deposited to the credit of the Education Reform Revolving Fund created pursuant to Section ~~41.29b~~ 34.89 of Title 62 of the Oklahoma Statutes. The Insurance Commissioner shall keep an accurate record of all such funds and make an itemized statement and furnish same to the State Auditor and Inspector, as to all other departments of this state. The report shall be accompanied by an affidavit of the Insurance Commissioner or the Chief Clerk of such office certifying to the correctness thereof.

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

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

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

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

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

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

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

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

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

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

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

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

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

4. All the balance and remainder of the taxes and fees provided in Section 624 of this title shall be paid to the State Treasurer to the credit of the General Revenue Fund of the state to provide revenue for general functions of state government. The Insurance Commissioner shall keep an accurate record of all such funds and make an itemized statement and furnish same to the State Auditor and

Inspector, as to all other departments of this state. The report shall be accompanied by an affidavit of the Insurance Commissioner or the Chief Clerk of such office certifying to the correctness thereof.

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

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

SECTION 6. This act shall become effective November 1, 2013.

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