

1 ENGROSSED HOUSE
2 BILL NO. 2078

By: McDaniel (Randy) of the
House

3 and

4 Mazzei of the Senate
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8 An Act relating to the Oklahoma Firefighters Pension
9 and Retirement System; amending 11 O.S. 2011,
10 Sections 49-100.1, as amended by Section 1, Chapter
11 364, O.S.L. 2012, 49-106.1, 49-117.1 and 49-122 (11
12 O.S. Supp. 2012, Section 49-100.1), which relate to
13 definitions, the Deferred Retirement Option Plan,
14 employer and employee contributions and terminations
15 before normal retirement; modifying definitions;
16 modifying minimum number of years of service credit
17 for retirement eligibility for certain persons;
18 modifying age-based rule for retirement eligibility;
19 modifying provisions related to Deferred Retirement
20 Option for certain persons; modifying maximum
duration of participation; modifying authorized rate
of return; providing for vesting of certain members
based upon first employment date; modifying employee
contribution rate; modifying employer contribution
rate; amending 36 O.S. 2011, Section 312.1, which
relates to the apportionment of insurance premium tax
revenues; modifying apportionment of revenues to the
Oklahoma Firefighters Pension and Retirement System;
and providing an effective date.

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

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

1 Section 100.1 As used in this article:

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

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

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

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

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

12 6. "Member" means all eligible firefighters of a participating
13 municipality or a fire protection district who perform the essential
14 functions of fire suppression, prevention, and life safety duties in
15 a fire department. The term "member" shall include but not be
16 limited to the person serving as fire chief of any participating
17 municipality, provided that a person serving as fire chief of a
18 participating municipality shall meet the age, agility, physical and
19 other eligibility requirements required by law at the time said
20 person becomes a member of the System. Effective July 1, 1987, a
21 member does not include a "leased employee". The term "leased
22 employee" means any person (other than an employee of the recipient)
23 who pursuant to an agreement between the recipient and any other
24 person ("leasing organization") has performed services for the

1 recipient (or for the recipient and related persons determined in
2 accordance with Section 414(n)(6) of the Internal Revenue Code of
3 1986, as amended) on a substantially full-time basis for a period of
4 at least one (1) year, and such services are performed under primary
5 direction or control by the recipient. Contributions or benefits
6 provided a leased employee by the leasing organization which are
7 attributable to services performed for the recipient employer shall
8 be treated as provided by the recipient employer. A leased employee
9 shall not be considered an employee of the recipient if the
10 requirements of the safe harbor provisions of Section 414(n)(5) of
11 the Internal Revenue Code of 1986, as amended, are satisfied.
12 Effective July 1, 1999, any individual who agrees with the
13 participating municipality that the individual's services are to be
14 performed as a leased employee or an independent contractor shall
15 not be a member regardless of any classification as a common law
16 employee by the Internal Revenue Service or any other governmental
17 agency, or any court of competent jurisdiction;

18 7. "Normal retirement date" means the date at which the member
19 is eligible to receive the unreduced payments of the member's
20 accrued retirement benefit. Such date shall be the first day
21 following the date the member completes twenty (20) years of
22 credited service. For a member whose first employment with a
23 participating employer of the System occurs on or after November 1,
24 2013, such date shall be the first day following the date the member

1 completes twenty-two (22) years of service and has attained the age
2 of at least fifty (50) years. If the member's employment continues
3 past the normal retirement date of the member, the actual retirement
4 date of the member shall be the first day following the date the
5 member terminates employment with more than twenty (20) years of
6 credited service, or with respect to members who are required to
7 complete twenty-two (22) years of service, the first day following
8 the date the member terminates employment with more than twenty-two
9 (22) years of service and who has also attained the age of at least
10 fifty (50) years;

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

21 9. "Participating municipality" means a municipality, county
22 fire department organized pursuant to subsection D of Section 351 of
23 Title 19 of the Oklahoma Statutes, or fire protection district which
24 is making contributions to the System on behalf of its firefighters.

1 All participating municipalities shall appoint a fire chief who
2 shall supervise and administer the fire department;

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

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

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

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

16 14. "Final average salary" means the average paid gross salary
17 of the firefighter for normally scheduled hours over the highest
18 salaried thirty (30) consecutive months of the last sixty (60)
19 months of credited service. Gross salary shall not include payment
20 for accumulated sick or annual leave upon termination of employment,
21 any uniform allowances or any other compensation for reimbursement
22 of out-of-pocket expenses. Only salary on which the required
23 contributions have been made may be used in computing the final
24 average salary. Effective January 1, 1988, gross salary shall

1 include any amount of elective salary reduction under Section 125 of
2 the Internal Revenue Code of 1986, as amended. Gross salary shall
3 include any amount of elective salary reduction under Section 457 of
4 the Internal Revenue Code of 1986, as amended, and any amount of
5 nonelective salary reduction under Section 414(h) of the Internal
6 Revenue Code of 1986, as amended. Effective July 1, 1998, for
7 purposes of determining a member's compensation, any contribution by
8 the member to reduce the member's regular cash remuneration under
9 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be
10 treated as if the member did not make such an election. Only salary
11 on which required contributions have been made may be used in
12 computing final average salary.

13 In addition to other applicable limitations, and notwithstanding
14 any other provision to the contrary, for plan years beginning on or
15 after July 1, 2002, the annual gross salary of each "Noneligible
16 Member" taken into account under the System shall not exceed the
17 Economic Growth and Tax Relief Reconciliation Act of 2001("EGTRRA")
18 annual salary limit. The EGTRRA annual salary limit is Two Hundred
19 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for
20 increases in the cost of living in accordance with Section
21 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The
22 annual salary limit in effect for a calendar year applies to any
23 period, not exceeding twelve (12) months, over which salary is
24 determined ("determination period") beginning in such calendar year.

1 If a determination period consists of fewer than twelve (12) months,
2 the EGTRRA salary limit will be multiplied by a fraction, the
3 numerator of which is the number of months in the determination
4 period, and the denominator of which is twelve (12). For purposes
5 of this subsection, a "Noneligible Member" is any member who first
6 became a member during a plan year commencing on or after July 1,
7 1996.

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

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

20 Effective June 9, 2010, any payments not described above shall
21 not be considered gross salary if paid after severance from
22 employment, even if they are paid by the later of two and one-half
23 (2 1/2) months after the date of severance from employment or the
24 end of the calendar year that includes the date of severance from

1 employment, except payments to an individual who does not currently
2 perform services for the participating municipality by reason of
3 qualified military service within the meaning of Section 414(u) (5)
4 of the Internal Revenue Code of 1986, as amended, to the extent
5 these payments do not exceed the amounts the individual would have
6 received if the individual had continued to perform services for the
7 participating municipality rather than entering qualified military
8 service.

9 Effective June 9, 2010, back pay, within the meaning of Section
10 1.415(c)-2(g) (8) of the Income Tax Regulations, shall be treated as
11 gross salary for the year to which the back pay relates to the
12 extent the back pay represents wages and compensation that would
13 otherwise be included in this definition.

14 Effective for years beginning after December 31, 2008, gross
15 salary shall also include differential wage payments under Section
16 414(u) (12) of the Internal Revenue Code of 1986, as amended;

17 15. "Accrued retirement benefit" means two and one-half percent
18 (2 1/2%) of the firefighter's final average salary multiplied by the
19 member's years of credited service not to exceed thirty (30) years;

20 16. "Beneficiary" means a member's surviving spouse or any
21 surviving children, including biological and adopted children, at
22 the time of the member's death. The surviving spouse must have been
23 married to the firefighter for the thirty (30) continuous months
24 preceding the firefighter's death provided a surviving spouse of a

1 member who died while in, or as a consequence of, the performance of
2 the member's duty for a participating municipality, shall not be
3 subject to the marriage limitation for survivor benefits. A
4 surviving child of a member shall be a beneficiary until reaching
5 eighteen (18) years of age or twenty-two (22) years of age if the
6 child is enrolled full time and regularly attending a public or
7 private school or any institution of higher education. Any child
8 adopted by a member after the member's retirement shall be a
9 beneficiary only if the child is adopted by the member for the
10 thirty (30) continuous months preceding the member's death. Any
11 child who is adopted by a member after the member's retirement and
12 such member dies accidentally or as a consequence of the performance
13 of the member's duty as a firefighter shall not be subject to the
14 thirty-month adoption requirement. This definition of beneficiary
15 shall be in addition to any other requirement set forth in this
16 article;

17 17. "Accumulated contributions" means the sum of all
18 contributions made by a member to the System and includes both
19 contributions deducted from the compensation of a member and
20 contributions of a member picked up and paid by the participating
21 municipality of the member. Accumulated contributions shall not
22 include any interest on the contributions of the member, interest on
23 any amount contributed by the municipality or state and any amount
24 contributed by the municipality or state; and

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

4 SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-106.1, is
5 amended to read as follows:

6 Section 49-106.1 A. In lieu of terminating employment and
7 accepting a service retirement pension pursuant to Sections 49-101
8 and 49-106 of this title, any member of the Oklahoma Firefighters
9 Pension and Retirement System who has not less than twenty (20)
10 years of creditable service, or for any member of the Oklahoma
11 Firefighters Pension and Retirement System whose first employment
12 with a participating employer of the System occurs on or after
13 November 1, 2013, and who has not less than twenty-two (22) years of
14 creditable service and who is eligible to receive a service
15 retirement pension may elect to participate in the Oklahoma
16 Firefighters Deferred Option Plan and defer the receipts of benefits
17 in accordance with the provisions of this section.

18 B. For purposes of this section, creditable service shall
19 include service credit reciprocally recognized pursuant to Sections
20 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2
21 of this title but for eligibility purposes only.

22 C. The Except as otherwise provided by this subsection, the
23 duration of participation in the Oklahoma Firefighters Deferred
24 Option Plan for active firefighters shall not exceed five (5) years.

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

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

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

1 2. A Except as otherwise provided by paragraph 3 of this
2 subsection, a member who participates in this plan shall earn
3 interest at a rate of two percentage points below the rate of return
4 of the investment portfolio of the System, but no less than the
5 actuarial assumed interest rate as certified by the actuary in the
6 yearly evaluation report of the actuary. The interest shall be
7 credited to the individual account balance of the member on an
8 annual basis.

9 3. Effective November 1, 2013, a member whose first service
10 with a participating employer of the System occurs on or after
11 November 1, 2013, and who participates for the first time in the
12 Deferred Option Plan on or after November 1, 2013, may participate
13 for a period of time greater than the period otherwise prescribed by
14 subsection C of this section and shall earn interest at a rate equal
15 to the actual rate of return of the investment portfolio of the
16 System, less a minimum of one percentage point to offset
17 administrative costs of the System as determined by the System.

18 F. A member in the plan shall receive, at the option of the
19 member, a lump-sum payment from the account equal to the payments to
20 the account or an annuity based upon the account of the member or
21 may elect any other method of payment if approved by the Board of
22 Trustees. If a member becomes so physically or mentally disabled
23 while in, or in consequence of, the performance of his or her duty
24 as to prevent the effective performance of his or her duties that

1 the State Board approves an in-line-of-duty disability pension, the
2 payment from the account shall be an in-line-of-duty disability
3 payment. Notwithstanding any other provision contained herein to
4 the contrary, commencement of distributions under the Oklahoma
5 Firefighters Deferred Option Plan shall be no later than the time as
6 set forth in subsection B of Section 49-106 of this title.

7 G. If a member dies while maintaining an account balance in the
8 plan the System shall pay to the designated recipient or recipients
9 of the member, or if there is no designated recipient or if the
10 designated recipient predeceases the member, to the spouse of the
11 member, or if there is no spouse or if the spouse predeceases the
12 member, to the estate of the member a lump-sum payment equal to the
13 account balance of the member. If such member was receiving, or
14 eligible to receive, an in-line-of-duty disability pension at the
15 time of his or her death, payment of the account balance shall be an
16 in-line-of-duty disability payment. If a designated recipient is
17 the surviving spouse of the member, the surviving spouse shall
18 receive his or her portion of the account balance of the member
19 pursuant to subsection F of this section. The surviving spouse,
20 whether or not he or she is a designated recipient of the member,
21 may elect to receive his or her portion of the account balance of
22 the member in the same manner as was applicable to the member.

23 H. In lieu of participating in the Oklahoma Firefighters
24 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of

1 this section, a member may elect to participate in the Oklahoma
2 Firefighters Deferred Option Plan pursuant to this subsection as
3 follows:

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

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

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

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

18 d. "deferred benefit balance" means all monthly
19 retirement benefits that would have been payable had
20 the member elected to cease employment on the back
21 drop date and receive a service retirement from the
22 back drop date to the termination date, all the
23 member's contributions and one-half (1/2) of the
24 employer contributions from the back drop date to the

1 termination date, with interest based on how the
2 benefit would have accumulated on a compound annual
3 basis as if the member had participated in the
4 Oklahoma Firefighters Deferred Option Plan pursuant to
5 subsections A, B, C, D, E and F of this section from
6 the back drop date to the termination date; and

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

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

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

- 6 a. "back drop election date" means the date the surviving
7 spouse or member elects to commence participation in
8 the Oklahoma Firefighters Deferred Option Plan
9 pursuant to subsection H of this section and this
10 subsection,
- 11 b. "interest" means the actuarial assumed interest rate
12 as certified by the actuary in the yearly evaluation
13 report of the actuary,
- 14 c. "monthly adjustment amount" means the difference
15 between the monthly pension prior to the back drop
16 election and the adjusted monthly pension due to the
17 back drop election,
- 18 d. "back drop pension adjustment amount" means the sum of
19 all the monthly adjustment amounts adjusted for
20 interest from the pension commencement date to the
21 back drop election date, and
- 22 e. "deferred benefit balance adjustment amount" means the
23 interest on the deferred benefit balance from the
24

1 pension commencement date to the back drop election
2 date.

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

1 of, the performance of the member's duty for a participating
2 municipality shall not be subject to the marriage limitation for
3 this election.

4 3. If a member has more than twenty (20) years of creditable
5 service and is eligible for a retirement for disability monthly
6 pension pursuant to Section 49-109 of this title on or after June 4,
7 2007, such member shall be eligible to elect to receive a benefit
8 determined as if the member had elected to participate in the
9 Oklahoma Firefighters Deferred Option Plan, in accordance with
10 subsection H of this section, on the day immediately preceding the
11 date of the member's disability retirement, provided such election
12 is made within two (2) years from the date of the member's
13 disability retirement. The disability monthly pension such member
14 is receiving, or entitled to receive, shall be adjusted in
15 accordance with the provisions of subsection H of this section to
16 account for the member's participation in the Oklahoma Firefighters
17 Deferred Option Plan. The deferred benefit balance such member is
18 entitled to receive shall be reduced by the back drop pension
19 adjustment amount and increased by the deferred benefit balance
20 adjustment amount. The member may only make a back drop election if
21 the deferred benefit balance after the adjustment described in this
22 paragraph is greater than Zero Dollars (\$0.00). The member may only
23 make this election if the member has not previously elected to
24 participate in the Oklahoma Firefighters Deferred Option Plan.

1 4. If a member has more than twenty (20) years of creditable
2 service and filed a grievance for wrongful termination occurring on
3 or after June 4, 2007, but is not reinstated as an active member,
4 such member shall be eligible to elect to receive a benefit
5 determined as if the member had elected to participate in the
6 Oklahoma Firefighters Deferred Option Plan in accordance with
7 subsection H of this section on the day immediately preceding the
8 date of the member's termination. Such election must be made within
9 two (2) years from the date of the member's termination as an active
10 member and, if the member's case pertaining to the member's
11 termination is on appeal to a court of competent jurisdiction,
12 within such period set by the State Board in its sole discretion.
13 The monthly pension such member is receiving, or entitled to
14 receive, shall be adjusted in accordance with the provisions of
15 subsection H of this section to account for the member's
16 participation in the Oklahoma Firefighters Deferred Option Plan.
17 The deferred benefit balance such member is entitled to receive
18 shall be reduced by the back drop pension adjustment amount and
19 increased by the deferred benefit balance adjustment amount. The
20 member may only make a back drop election if the deferred benefit
21 balance after the adjustment described in this paragraph is greater
22 than Zero Dollars (\$0.00). The member may only make this election
23 if the member has not previously elected to participate in the
24 Oklahoma Firefighters Deferred Option Plan.

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

15 SECTION 3. AMENDATORY 11 O.S. 2011, Section 49-117.1, is
16 amended to read as follows:

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

23 B. If a member, other than a member whose first employment with
24 a participating employer of the System occurs prior to November 1,

1 2013, has completed ten (10) years of credited service at the date
2 of termination, the member may elect a vested benefit in lieu of
3 receiving the member's accumulated contributions.

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

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

21 E. If the member who has completed eleven (11) or more years of
22 credited service as prescribed by subsection C of this section
23 elects the vested benefit, the member shall be entitled to a monthly
24 retirement annuity commencing on the date the member reaches fifty

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

9 F. If a member who terminates employment and elects a vested
10 benefit dies prior to being eligible to receive benefits, the
11 member's beneficiary shall be entitled to the member's normal
12 monthly retirement benefit on the date the deceased member would
13 have been eligible to receive the benefit.

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

22 H. Effective January 1, 2002, lump-sum payments for repayment
23 of any amounts received because of a member's prior termination with
24 interest may be repaid by a trustee-to-trustee transfer from a Code

1 Section 403(b) annuity, a governmental Code Section 457 plan, and/or
2 a Code Section 401(a) qualified plan.

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

6 SECTION 4. AMENDATORY 11 O.S. 2011, Section 49-122, is
7 amended to read as follows:

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

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

5 Although the contributions so picked up are designated as member
6 contributions, such contributions shall be treated as contributions
7 being paid by the municipality in lieu of contributions by the
8 member in determining tax treatment under the Internal Revenue Code
9 of 1986, as amended, and such picked up contributions shall not be
10 includable in the gross income of the member until such amounts are
11 distributed or made available to the member or the beneficiary of
12 the member. The member, by the terms of this System, shall not have
13 any option to choose to receive the contributions so picked up
14 directly and the picked up contributions must be paid by the
15 municipality to the System.

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

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

1 reduction in gross salary and offset against future salary
2 increases.

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

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

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

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

16 3. Beginning July 1, 1992 through June 30, 1993, eleven percent
17 (11%) of the total actual paid gross salaries of the members of the
18 fire department;

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

22 5. Beginning July 1, 1994 through June 30, 1995, twelve percent
23 (12%) of the total actual paid gross salaries of the members of the
24 fire department;

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

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

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

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

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

21 Any municipality that fails to comply with the provisions of
22 this section shall not be entitled to its proportionate share of the
23 Motor Fuel Excise Tax which is received through the Oklahoma Tax
24

Commission. Any county or municipality may exceed the amount of contribution required by this section.

The provisions of this section shall supercede 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

1 insurance premium tax revenue loss attributable to the provisions of
2 subsection H of Section 625.1 of this title and increased if
3 necessary to reflect the annual computation, and which shall be
4 apportioned before any other amounts, to the following pension
5 systems and in the following amounts:

6 1. Sixty-five percent (65%) to the Oklahoma Firefighters
7 Pension and Retirement Fund in the manner provided for in Sections
8 49-119, 49-120 and 49-123 of Title 11 of the Oklahoma Statutes;

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

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

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

19 1. Thirty-four percent (34%) of the taxes collected on premiums
20 shall be allocated and disbursed for 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 2. Seventeen percent (17%) of the taxes collected on premiums
24 shall be allocated and disbursed to the Oklahoma Police Pension and

1 Retirement System pursuant to the provisions of Sections 50-101
2 through 50-136 of Title 11 of the Oklahoma Statutes;

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

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

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

22 1. ~~Thirty-four percent (34%)~~ Thirty-six percent (36%) of the
23 taxes collected on premiums shall be allocated and disbursed for the
24 Oklahoma Firefighters Pension and Retirement Fund, in the manner

1 provided for in Sections 49-119, 49-120 and 49-123 of Title 11 of
2 the Oklahoma Statutes;

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

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

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

20 E. The disbursements provided for in subsections A, B, C and D
21 of this section shall be made monthly. The Insurance Commissioner
22 shall report annually to the Governor, the Speaker of the House of
23 Representatives, the President Pro Tempore of the Senate and the
24

1 State Auditor and Inspector, the amounts collected and disbursed
2 pursuant to this section.

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

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

11 Passed the House of Representatives the 20th day of February,
12 2013.

13 _____
14 Presiding Officer of the House
of Representatives

15 Passed the Senate the ____ day of _____, 2013.

16 _____
17 Presiding Officer of the Senate
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