

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2078

By: McDaniel (Randy) of the
House

and

Mazzei of the Senate

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Firefighters Pension and Retirement System; 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 definitions, the Deferred Retirement Option Plan, employer and employee contributions and terminations before normal retirement; modifying definitions; modifying minimum number of years of service credit for retirement eligibility for certain persons; modifying age-based rule for retirement eligibility; modifying provisions related to Deferred Retirement 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.

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

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

5 Section 100.1 As used in this article:

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

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

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

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

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

16 6. "Member" means all eligible firefighters of a participating
17 municipality or a fire protection district who perform the essential
18 functions of fire suppression, prevention, and life safety duties in
19 a fire department. The term "member" shall include but not be
20 limited to the person serving as fire chief of any participating
21 municipality, provided that a person serving as fire chief of a
22 participating municipality shall meet the age, agility, physical and
23 other eligibility requirements required by law at the time said
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1 person becomes a member of the System. Effective July 1, 1987, a
2 member does not include a "leased employee". The term "leased
3 employee" means any person (other than an employee of the recipient)
4 who pursuant to an agreement between the recipient and any other
5 person ("leasing organization") has performed services for the
6 recipient (or for the recipient and related persons determined in
7 accordance with Section 414(n)(6) of the Internal Revenue Code of
8 1986, as amended) on a substantially full-time basis for a period of
9 at least one year, and such services are performed under primary
10 direction or control by the recipient. Contributions or benefits
11 provided a leased employee by the leasing organization which are
12 attributable to services performed for the recipient employer shall
13 be treated as provided by the recipient employer. A leased employee
14 shall not be considered an employee of the recipient if the
15 requirements of the safe harbor provisions of Section 414(n)(5) of
16 the Internal Revenue Code of 1986, as amended, are satisfied.
17 Effective July 1, 1999, any individual who agrees with the
18 participating municipality that the individual's services are to be
19 performed as a leased employee or an independent contractor shall
20 not be a member regardless of any classification as a common law
21 employee by the Internal Revenue Service or any other governmental
22 agency, or any court of competent jurisdiction;

1 7. "Normal retirement date" means the date at which the member
2 is eligible to receive the unreduced payments of the member's
3 accrued retirement benefit. Such date shall be the first day
4 following the date the member completes twenty (20) years of
5 credited service. For a member whose first employment with a
6 participating employer of the System occurs on or after November 1,
7 2013, such date shall be the first day following the date the member
8 completes twenty-two (22) years of service and has attained the age
9 of at least fifty (50) years. If the member's employment continues
10 past the normal retirement date of the member, the actual retirement
11 date of the member shall be the first day following the date the
12 member terminates employment with more than twenty (20) years of
13 credited service, or with respect to members who are required to
14 complete twenty-two (22) years of service, the first day following
15 the date the member terminates employment with more than twenty-two
16 (22) years of service and who has also attained the age of at least
17 fifty (50) years;

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

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

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

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

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

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

1 14. "Final average salary" means the average paid gross salary
2 of the firefighter for normally scheduled hours over the highest
3 salaried thirty (30) consecutive months of the last sixty (60)
4 months of credited service. Gross salary shall not include payment
5 for accumulated sick or annual leave upon termination of employment,
6 any uniform allowances or any other compensation for reimbursement
7 of out-of-pocket expenses. Only salary on which the required
8 contributions have been made may be used in computing the final
9 average salary. Effective January 1, 1988, gross salary shall
10 include any amount of elective salary reduction under Section 125 of
11 the Internal Revenue Code of 1986, as amended. Gross salary shall
12 include any amount of elective salary reduction under Section 457 of
13 the Internal Revenue Code of 1986, as amended, and any amount of
14 nonelective salary reduction under Section 414(h) of the Internal
15 Revenue Code of 1986, as amended. Effective July 1, 1998, for
16 purposes of determining a member's compensation, any contribution by
17 the member to reduce the member's regular cash remuneration under
18 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be
19 treated as if the member did not make such an election. Only salary
20 on which required contributions have been made may be used in
21 computing final average salary.

22 In addition to other applicable limitations, and notwithstanding
23 any other provision to the contrary, for plan years beginning on or
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1 after July 1, 2002, the annual gross salary of each "Noneligible
2 Member" taken into account under the System shall not exceed the
3 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")
4 annual salary limit. The EGTRRA annual salary limit is Two Hundred
5 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for
6 increases in the cost of living in accordance with Section
7 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The
8 annual salary limit in effect for a calendar year applies to any
9 period, not exceeding twelve (12) months, over which salary is
10 determined ("determination period") beginning in such calendar year.
11 If a determination period consists of fewer than twelve (12) months,
12 the EGTRRA salary limit will be multiplied by a fraction, the
13 numerator of which is the number of months in the determination
14 period, and the denominator of which is twelve (12). For purposes
15 of this subsection, a "Noneligible Member" is any member who first
16 became a member during a plan year commencing on or after July 1,
17 1996.

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

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

7 Effective June 9, 2010, any payments not described above shall
8 not be considered gross salary if paid after severance from
9 employment, even if they are paid by the later of two and one-half
10 (2 1/2) months after the date of severance from employment or the
11 end of the calendar year that includes the date of severance from
12 employment, except payments to an individual who does not currently
13 perform services for the participating municipality by reason of
14 qualified military service within the meaning of Section 414(u)(5)
15 of the Internal Revenue Code of 1986, as amended, to the extent
16 these payments do not exceed the amounts the individual would have
17 received if the individual had continued to perform services for the
18 participating municipality rather than entering qualified military
19 service.

20 Effective June 9, 2010, back pay, within the meaning of Section
21 1.415(c)-2(g)(8) of the Income Tax Regulations, shall be treated as
22 gross salary for the year to which the back pay relates to the
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1 extent the back pay represents wages and compensation that would
2 otherwise be included in this definition.

3 Effective for years beginning after December 31, 2008, gross
4 salary shall also include differential wage payments under Section
5 414(u) (12) of the Internal Revenue Code of 1986, as amended;

6 15. "Accrued retirement benefit" means two and one-half percent
7 (2 1/2%) of the firefighter's final average salary multiplied by the
8 member's years of credited service not to exceed thirty (30) years;

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

7 17. "Accumulated contributions" means the sum of all
8 contributions made by a member to the System and includes both
9 contributions deducted from the compensation of a member and
10 contributions of a member picked up and paid by the participating
11 municipality of the member. Accumulated contributions shall not
12 include any interest on the contributions of the member, interest on
13 any amount contributed by the municipality or state and any amount
14 contributed by the municipality or state; and

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

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

20 Section 49-106.1 A. In lieu of terminating employment and
21 accepting a service retirement pension pursuant to Sections 49-101
22 and 49-106 of this title, any member of the Oklahoma Firefighters
23 Pension and Retirement System who has not less than twenty (20)

1 years of creditable service, or for any member of the Oklahoma
2 Firefighters Pension and Retirement System whose first employment
3 with a participating employer of the System occurs on or after
4 November 1, 2013, and who has not less than twenty-two (22) years of
5 creditable service and who is eligible to receive a service
6 retirement pension may elect to participate in the Oklahoma
7 Firefighters Deferred Option Plan and defer the receipts of benefits
8 in accordance with the provisions of this section.

9 B. For purposes of this section, creditable service shall
10 include service credit reciprocally recognized pursuant to Sections
11 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2
12 of this title but for eligibility purposes only.

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

3 D. When a member begins participation in the Oklahoma
4 Firefighters Deferred Option Plan, the contribution of the member
5 shall cease. The employer contributions shall continue to be paid
6 in accordance with subsection B of Section 49-122 of this title.

7 Employer contributions for members who elect the Oklahoma
8 Firefighters Deferred Option Plan shall be credited equally to the
9 Oklahoma Firefighters Pension and Retirement System and to the
10 member's Oklahoma Firefighters Deferred Option Plan account. The
11 monthly retirement benefits that would have been payable had the
12 member elected to cease employment and receive a service retirement
13 shall be paid into the member's Oklahoma Firefighters Deferred
14 Option Plan account.

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

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

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

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

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

19 H. In lieu of participating in the Oklahoma Firefighters
20 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
21 this section, a member may elect to participate in the Oklahoma
22 Firefighters Deferred Option Plan pursuant to this subsection as
23 follows:
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1 1. For purposes of this subsection and subsection I of this
2 section, the following definitions shall apply:

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

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

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

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

1 basis as if the member had participated in the
2 Oklahoma Firefighters Deferred Option Plan pursuant to
3 subsections A, B, C, D, E and F of this section from
4 the back drop date to the termination date; and

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

5 3. If a member has more than twenty (20) years of creditable
6 service and is eligible for a retirement for disability monthly
7 pension pursuant to Section 49-109 of this title on or after June 4,
8 2007, such member shall be eligible to elect to receive a benefit
9 determined as if the member had elected to participate in the
10 Oklahoma Firefighters Deferred Option Plan, in accordance with
11 subsection H of this section, on the day immediately preceding the
12 date of the member's disability retirement, provided such election
13 is made within two (2) years from the date of the member's
14 disability retirement. The disability monthly pension such member
15 is receiving, or entitled to receive, shall be adjusted in
16 accordance with the provisions of subsection H of this section to
17 account for the member's participation in the Oklahoma Firefighters
18 Deferred Option Plan. The deferred benefit balance such member is
19 entitled to receive shall be reduced by the back drop pension
20 adjustment amount and increased by the deferred benefit balance
21 adjustment amount. The member may only make a back drop election if
22 the deferred benefit balance after the adjustment described in this
23 paragraph is greater than Zero Dollars (\$0.00). The member may only

1 make this election if the member has not previously elected to
2 participate in the Oklahoma Firefighters Deferred Option Plan.

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

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

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

20 Section 49-117.1 A. A member who terminates service before
21 normal retirement date, other than by death or disability shall,
22 upon application filed with the State Board, be refunded from the
23 Fund an amount equal to the accumulated contributions the member has
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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

1 shall not apply to any member retiring under the provisions of this
2 section.

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

15 F. If a member who terminates employment and elects a vested
16 benefit dies prior to being eligible to receive benefits, the
17 member's beneficiary shall be entitled to the member's normal
18 monthly retirement benefit on the date the deceased member would
19 have been eligible to receive the benefit.

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

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

10 I. A fire fighter shall not be permitted to withdraw from the
11 System while employed as a fire fighter in a participating
12 municipality.

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

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

9 Each municipality shall pick up under the provisions of Section
10 414(h) (2) of the Internal Revenue Code of 1986, as amended, and pay
11 the contribution which the member is required by law to make to the
12 System for all compensation earned after December 31, 1988.

13 Although the contributions so picked up are designated as member
14 contributions, such contributions shall be treated as contributions
15 being paid by the municipality in lieu of contributions by the
16 member in determining tax treatment under the Internal Revenue Code
17 of 1986, as amended, and such picked up contributions shall not be
18 includable in the gross income of the member until such amounts are
19 distributed or made available to the member or the beneficiary of
20 the member. The member, by the terms of this System, shall not have
21 any option to choose to receive the contributions so picked up
22 directly and the picked up contributions must be paid by the
23 municipality to the System.

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

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

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

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

20 1. Prior to July 1, 1991, ten percent (10%) of the total actual
21 paid gross salaries of the members of the fire department;
22
23
24

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

4 3. Beginning July 1, 1992 through June 30, 1993, eleven percent
5 (11%) of the total actual paid gross salaries of the members of the
6 fire department;

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

10 5. Beginning July 1, 1994 through June 30, 1995, twelve percent
11 (12%) of the total actual paid gross salaries of the members of the
12 fire department;

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

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

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

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

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

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

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

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

21 Section 312.1 A. For the fiscal year ending June 30, 2004, the
22 Insurance Commissioner shall report and disburse one hundred percent
23 (100%) of the fees and taxes collected under Section 624 of this
24

1 title to the State Treasurer to be deposited to the credit of the
2 Education Reform Revolving Fund created pursuant to Section ~~41.29b~~
3 34.89 of Title 62 of the Oklahoma Statutes. The Insurance
4 Commissioner shall keep an accurate record of all such funds and
5 make an itemized statement and furnish same to the State Auditor and
6 Inspector, as to all other departments of this state. The report
7 shall be accompanied by an affidavit of the Insurance Commissioner
8 or the Chief Clerk of such office certifying to the correctness
9 thereof.

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

21 1. Sixty-five percent (65%) to the Oklahoma Firefighters
22 Pension and Retirement Fund in the manner provided for in Sections
23 49-119, 49-120 and 49-123 of Title 11 of the Oklahoma Statutes;

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

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

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

11 1. Thirty-four percent (34%) of the taxes collected on premiums
12 shall be allocated and disbursed for the Oklahoma Firefighters
13 Pension and Retirement Fund, in the manner provided for in Sections
14 49-119, 49-120 and 49-123 of Title 11 of the Oklahoma Statutes;

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

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

22 4. All the balance and remainder of the taxes and fees provided
23 in Section 624 of this title shall be paid to the State Treasurer to
24

1 the credit of the General Revenue Fund of the state to provide
2 revenue for general functions of state government. The Insurance
3 Commissioner shall keep an accurate record of all such funds and
4 make an itemized statement and furnish same to the State Auditor and
5 Inspector, as to all other departments of this state. The report
6 shall be accompanied by an affidavit of the Insurance Commissioner
7 or the Chief Clerk of such office certifying to the correctness
8 thereof.

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

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

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

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

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

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

20 F. Notwithstanding any other provision of law to the contrary,
21 no tax credit authorized by law enacted on or after July 1, 2008,
22 which may be used to reduce any insurance premium tax liability
23 shall be used to reduce the amount of insurance premium tax revenue
24

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.

COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND FINANCIAL SERVICES, dated 02/14/2013 - DO PASS, As Amended and Coauthored.