

CORRECTED**SENATE FLOOR VERSION**

April 1, 2013

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2078

By: McDaniel (Randy) of the
House

and

Mazzei of the Senate

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.

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 49-100.1. 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
24 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

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

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

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

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

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

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

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

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

1 any uniform allowances or any other compensation for reimbursement
2 of out-of-pocket expenses. Only salary on which the required
3 contributions have been made may be used in computing the final
4 average salary. Effective January 1, 1988, gross salary shall
5 include any amount of elective salary reduction under Section 125 of
6 the Internal Revenue Code of 1986, as amended. Gross salary shall
7 include any amount of elective salary reduction under Section 457 of
8 the Internal Revenue Code of 1986, as amended, and any amount of
9 nonelective salary reduction under Section 414(h) of the Internal
10 Revenue Code of 1986, as amended. Effective July 1, 1998, for
11 purposes of determining a member's compensation, any contribution by
12 the member to reduce the member's regular cash remuneration under
13 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be
14 treated as if the member did not make such an election. Only salary
15 on which required contributions have been made may be used in
16 computing final average salary.

17 In addition to other applicable limitations, and notwithstanding
18 any other provision to the contrary, for plan years beginning on or
19 after July 1, 2002, the annual gross salary of each "Noneligible
20 Member" taken into account under the System shall not exceed the
21 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")
22 annual salary limit. The EGTRRA annual salary limit is Two Hundred
23 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for
24 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;

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

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

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

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

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

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

1 B. For purposes of this section, creditable service shall
2 include service credit reciprocally recognized pursuant to Sections
3 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2
4 of this title but for eligibility purposes only.

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

17 D. When a member begins participation in the Oklahoma
18 Firefighters Deferred Option Plan, the contribution of the member
19 shall cease. The employer contributions shall continue to be paid
20 in accordance with subsection B of Section 49-122 of this title.
21 Employer contributions for members who elect the Oklahoma
22 Firefighters Deferred Option Plan shall be credited equally to the
23 Oklahoma Firefighters Pension and Retirement System and to the
24 member's Oklahoma Firefighters Deferred Option Plan account. The

1 monthly retirement benefits that would have been payable had the
2 member elected to cease employment and receive a service retirement
3 shall be paid into the member's Oklahoma Firefighters Deferred
4 Option Plan account.

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

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

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

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

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

16 G. If a member dies while maintaining an account balance in the
17 plan the System shall pay to the designated recipient or recipients
18 of the member, or if there is no designated recipient or if the
19 designated recipient predeceases the member, to the spouse of the
20 member, or if there is no spouse or if the spouse predeceases the
21 member, to the estate of the member a lump-sum payment equal to the
22 account balance of the member. If such member was receiving, or
23 eligible to receive, an in-line-of-duty disability pension at the
24 time of his or her death, payment of the account balance shall be an

1 in_line_of_duty disability payment. If a designated recipient is
2 the surviving spouse of the member, the surviving spouse shall
3 receive his or her portion of the account balance of the member
4 pursuant to subsection F of this section. The surviving spouse,
5 whether or not he or she is a designated recipient of the member,
6 may elect to receive his or her portion of the account balance of
7 the member in the same manner as was applicable to the member.

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

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

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

19 b. "termination date" means the date the member elects to
20 participate in the Oklahoma Firefighters Deferred
21 Option Plan pursuant to this subsection, and the date
22 the member terminates employment with all
23 participating municipalities as an active firefighter,
24

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

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

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

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

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

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

- 15 a. "back drop election date" means the date the surviving
16 spouse or member elects to commence participation in
17 the Oklahoma Firefighters Deferred Option Plan
18 pursuant to subsection H of this section and this
19 subsection,
- 20 b. "interest" means the actuarial assumed interest rate
21 as certified by the actuary in the yearly evaluation
22 report of the actuary,
- 23 c. "monthly adjustment amount" means the difference
24 between the monthly pension prior to the back drop

1 election and the adjusted monthly pension due to the
2 back drop election,

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

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

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

1 subsection H of this section to account for the member's
2 participation in the Oklahoma Firefighters Deferred Option Plan.
3 The surviving spouse may only make this election if the member has
4 not previously elected to participate in the Oklahoma Firefighters
5 Deferred Option Plan. For purposes of this election, the surviving
6 spouse must have been married to the firefighter for the thirty (30)
7 continuous months preceding the firefighter's death; provided, the
8 surviving spouse of a member who died while in, or as a consequence
9 of, the performance of the member's duty for a participating
10 municipality shall not be subject to the marriage limitation for
11 this election.

12 3. If a member has more than twenty (20) years of creditable
13 service and is eligible for a retirement for disability monthly
14 pension pursuant to Section 49-109 of this title on or after June 4,
15 2007, such member shall be eligible to elect to receive a benefit
16 determined as if the member had elected to participate in the
17 Oklahoma Firefighters Deferred Option Plan, in accordance with
18 subsection H of this section, on the day immediately preceding the
19 date of the member's disability retirement, provided such election
20 is made within two (2) years from the date of the member's
21 disability retirement. The disability monthly pension such member
22 is receiving, or entitled to receive, shall be adjusted in
23 accordance with the provisions of subsection H of this section to
24 account for the member's participation in the Oklahoma Firefighters

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

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

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

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

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

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

7 B. If a member, other than a member whose first employment with
8 a participating employer of the System occurs prior to November 1,
9 2013, has completed ten (10) years of credited service at the date
10 of termination, the member may elect a vested benefit in lieu of
11 receiving the member's accumulated contributions.

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

17 D. If the member who has completed ten (10) or more years of
18 credited service as prescribed by subsection B of this section
19 elects the vested benefit, the member shall be entitled to a monthly
20 retirement annuity commencing on the date the member reaches fifty
21 (50) years of age or the date the member would have had twenty (20)
22 years of credited service had the member's employment continued
23 uninterrupted, whichever is later. The annual amount of such
24 retirement annuity shall be equal to two and one-half percent (2

1 1/2%) of final average salary multiplied by the number of years of
2 credited service. The death benefits provided for in this article
3 shall not apply to any member retiring under the provisions of this
4 section.

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

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

22 G. If a member terminates employment and withdraws the member's
23 accumulated contributions and then subsequently rejoins the System,
24 he may pay to the System the sum of the accumulated contributions he

1 has withdrawn plus five percent (5%) annual interest from the date
2 of withdrawal and shall receive the same benefits as if he had never
3 withdrawn his contributions; however, effective January 1, 1991, the
4 rate of interest provided herein shall be ten percent (10%) per
5 annum.

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

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

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

16 Section 49-122. A. Each municipality having a paid member of a
17 fire department shall deduct monthly from the salary of each member
18 of the fire department of such municipality an amount equal to ~~eight~~
19 ~~percent (8%)~~ nine percent (9%) of the actual paid gross salary of
20 each member of the fire department. The deduction shall be
21 considered the minimum deduction. At the option of the
22 municipality, the municipality may pay all or any part of the
23 member's required contribution. The treasurer of each municipality
24 shall deduct the authorized deductions from the salary of each paid

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

1 3. Beginning July 1, 1992 through June 30, 1993, eleven percent
2 (11%) of the total actual paid gross salaries of the members of the
3 fire department;

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

7 5. Beginning July 1, 1994 through June 30, 1995, twelve percent
8 (12%) of the total actual paid gross salaries of the members of the
9 fire department;

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

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

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

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

22 Provided, the above-mentioned volunteer county or municipal
23 contributions shall be reevaluated by the next scheduled actuarial
24 study and the amounts adjusted so that in a nine-year period of

1 time, the amounts would reflect the actuarial recommendations at
2 that time. Any county or municipality with an income of less than
3 Twenty-five Thousand Dollars (\$25,000.00) to its general fund during
4 a fiscal year shall be exempt from the provisions of this
5 subsection.

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

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

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

15 Section 312.1. A. For the fiscal year ending June 30, 2004,
16 the Insurance Commissioner shall report and disburse one hundred
17 percent (100%) of the fees and taxes collected under Section 624 of
18 this title to the State Treasurer to be deposited to the credit of
19 the Education Reform Revolving Fund created pursuant to Section
20 ~~41.29b~~ 34.89 of Title 62 of the Oklahoma Statutes. The Insurance
21 Commissioner shall keep an accurate record of all such funds and
22 make an itemized statement and furnish same to the State Auditor and
23 Inspector, as to all other departments of this state. The report
24 shall be accompanied by an affidavit of the Insurance Commissioner

1 or the Chief Clerk of such office certifying to the correctness
2 thereof.

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

14 1. Sixty-five percent (65%) to the Oklahoma Firefighters
15 Pension and Retirement Fund in the manner provided for in Sections
16 49-119, 49-120 and 49-123 of Title 11 of the Oklahoma Statutes;

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

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

21 C. After the apportionment required by subsection B of this
22 section, for the fiscal years beginning July 1, 2004, and ending
23 June 30, 2009, the Insurance Commissioner shall report and disburse
24 all of the fees and taxes collected under Section 624 of this title

1 and Section 2204 of this title, and the same are hereby apportioned
2 as follows:

3 1. Thirty-four percent (34%) of the taxes collected on premiums
4 shall be allocated and disbursed for the Oklahoma Firefighters
5 Pension and Retirement Fund, in the manner provided for in Sections
6 49-119, 49-120 and 49-123 of Title 11 of the Oklahoma Statutes;

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

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

14 4. All the balance and remainder of the taxes and fees provided
15 in Section 624 of this title shall be paid to the State Treasurer to
16 the credit of the General Revenue Fund of the state to provide
17 revenue for general functions of state government. The Insurance
18 Commissioner shall keep an accurate record of all such funds and
19 make an itemized statement and furnish same to the State Auditor and
20 Inspector, as to all other departments of this state. The report
21 shall be accompanied by an affidavit of the Insurance Commissioner
22 or the Chief Clerk of such office certifying to the correctness
23 thereof.
24

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

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

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

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

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

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

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

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

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

19 COMMITTEE REPORT BY: COMMITTEE ON PENSIONS
20 April 1, 2013 - DO PASS AS AMENDED
21
22
23
24