

## STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

HOUSE BILL 2078

By: McDaniel (Randy)

AS INTRODUCED

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 and 49-122 (11 O.S. Supp. 2012, Section 49-100.1), which relate to definitions, the Deferred Retirement Option Plan and employer and employee contributions; 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; 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.

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

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

Section 100.1 As used in this article:

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

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

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

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

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

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

1 accordance with Section 414(n)(6) of the Internal Revenue Code of  
2 1986, as amended) on a substantially full-time basis for a period of  
3 at least one year, and such services are performed under primary  
4 direction or control by the recipient. Contributions or benefits  
5 provided a leased employee by the leasing organization which are  
6 attributable to services performed for the recipient employer shall  
7 be treated as provided by the recipient employer. A leased employee  
8 shall not be considered an employee of the recipient if the  
9 requirements of the safe harbor provisions of Section 414(n)(5) of  
10 the Internal Revenue Code of 1986, as amended, are satisfied.

11 Effective July 1, 1999, any individual who agrees with the  
12 participating municipality that the individual's services are to be  
13 performed as a leased employee or an independent contractor shall  
14 not be a member regardless of any classification as a common law  
15 employee by the Internal Revenue Service or any other governmental  
16 agency, or any court of competent jurisdiction;

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

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

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

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

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 and who is eligible to receive a service  
11 retirement pension may elect to participate in the Oklahoma  
12 Firefighters Deferred Option Plan and defer the receipts of benefits  
13 in accordance with the provisions of this section.

14 B. For purposes of this section, creditable service shall  
15 include service credit reciprocally recognized pursuant to Sections  
16 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2  
17 of this title but for eligibility purposes only.

18 C. The Except as otherwise provided by this subsection, the  
19 duration of participation in the Oklahoma Firefighters Deferred  
20 Option Plan for active firefighters shall not exceed five (5) years.  
21 Participation in the Oklahoma Firefighters Deferred Option Plan must  
22 begin the first day of a month and end on the last day of a month.  
23 At the conclusion of a member's participation in the Oklahoma  
24 Firefighters Deferred Option Plan, the member shall terminate

1 employment with all participating municipalities as a firefighter,  
2 and shall start receiving the member's accrued monthly retirement  
3 benefit from the System. Such a member may be reemployed by a  
4 participating municipality but only in a position not covered under  
5 the System, and receive in-service distributions of such member's  
6 accrued monthly retirement benefit from the System.

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

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

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

21 2. A Except as otherwise provided by paragraph 3 of this  
22 subsection, a member who participates in this plan shall earn  
23 interest at a rate of two percentage points below the rate of return  
24 of the investment portfolio of the System, but no less than the

1 actuarial assumed interest rate as certified by the actuary in the  
2 yearly evaluation report of the actuary. The interest shall be  
3 credited to the individual account balance of the member on an  
4 annual basis.

5 3. Effective November 1, 2013, a member who participates for  
6 the first time in the Deferred Option Plan may participate for a  
7 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  
23 Firefighters Deferred Option Plan shall be no later than the time as  
24 set forth in subsection B of Section 49-106 of this title.

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

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

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

- 1           a.    "back drop date" means the member's normal retirement  
2               date or the date five (5) years before the member  
3               elects to participate in the Oklahoma Firefighters  
4               Deferred Option Plan, whichever date is later,
- 5           b.    "termination date" means the date the member elects to  
6               participate in the Oklahoma Firefighters Deferred  
7               Option Plan pursuant to this subsection, and the date  
8               the member terminates employment with all  
9               participating municipalities as an active firefighter,
- 10          c.    "earlier attained credited service" means the credited  
11               service earned by a member as of the back drop date,  
12               and
- 13          d.    "deferred benefit balance" means all monthly  
14               retirement benefits that would have been payable had  
15               the member elected to cease employment on the back  
16               drop date and receive a service retirement from the  
17               back drop date to the termination date, all the  
18               member's contributions and one-half (1/2) of the  
19               employer contributions from the back drop date to the  
20               termination date, with interest based on how the  
21               benefit would have accumulated on a compound annual  
22               basis as if the member had participated in the  
23               Oklahoma Firefighters Deferred Option Plan pursuant to  
24

1 subsections A, B, C, D, E and F of this section from  
2 the back drop date to the termination date; and

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

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

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

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

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



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

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

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

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

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

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

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

SECTION 3. AMENDATORY 11 O.S. 2011, Section 49-122, is amended to read as follows:

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

1 payroll date shall be subject to a monthly late charge of one and  
2 one-half percent (1 1/2%) of the unpaid balance to be paid by the  
3 municipality to the System.

4 Each municipality shall pick up under the provisions of Section  
5 414(h) (2) of the Internal Revenue Code of 1986, as amended, and pay  
6 the contribution which the member is required by law to make to the  
7 System for all compensation earned after December 31, 1988.

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

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

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

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

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

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

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

20       3. Beginning July 1, 1992 through June 30, 1993, eleven percent  
21 (11%) of the total actual paid gross salaries of the members of the  
22 fire department;

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

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

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

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

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

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

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

1 a fiscal year shall be exempt from the provisions of this  
2 subsection.

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

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

10 SECTION 4. AMENDATORY 36 O.S. 2011, Section 312.1, is  
11 amended to read as follows:

12 Section 312.1 A. For the fiscal year ending June 30, 2004, the  
13 Insurance Commissioner shall report and disburse one hundred percent  
14 (100%) of the fees and taxes collected under Section 624 of this  
15 title to the State Treasurer to be deposited to the credit of the  
16 Education Reform Revolving Fund created pursuant to Section ~~41.29b~~  
17 34.89 of Title 62 of the Oklahoma Statutes. 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.



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

12       1. Sixty-five percent (65%) to 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. Twenty-six percent (26%) to the Oklahoma Police Pension and  
16 Retirement System pursuant to the provisions of Sections 50-101  
17 through 50-136 of Title 11 of the Oklahoma Statutes; and

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

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

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

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

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

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

22        D. After the apportionment required by subsection B of this  
23 section, ~~for the fiscal year ending June 30, 2010, and for each~~  
24 ~~fiscal year thereafter~~ the Insurance Commissioner shall report and

1 disburse all of the fees and taxes collected under Section 624 of  
2 this title and Section 2204 of this title, and the same are hereby  
3 apportioned as follows:

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

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

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

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

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

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

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

16 SECTION 5. This act shall become effective November 1, 2013.

17  
18 54-1-5265 MAH 01/17/13  
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January 17, 2013

Representative Randy McDaniel  
Room 438

Re: RBH No. 5265

RBH No. 5265 changes the Normal Retirement Date for participants hired after 11/01/2013 in the Oklahoma Firefighters Pension and Retirement System.

The normal retirement date for these participants is at least age 50 with 22 years of service.

The interest rate to be credited in the DROP is actual interest rate earned by the fund less 1% for these new participants.

The contribution rate for all participants is increased to 9% from 8% of compensation. The employer contribution rate is increased to 14% from 13%

The allocation from the premium tax is increased to 36% from 34%.

RBH No. 5265 is a nonfiscal retirement bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act.

*Thomas E. Cummins*

Thomas E. Cummins, MAAA