

1 ENGROSSED HOUSE
2 BILL NO. 3329

By: Sanders of the House

3 and

4 Griffin of the Senate
5

6 An Act relating to public retirement systems;
7 amending 62 O.S. 2011, Section 3103, which relates to
8 the Oklahoma Pension Legislation Actuarial Analysis
9 Act; modifying definition; amending 11 O.S. 2011,
10 Sections 49-106.1, as last amended by Section 3,
11 Chapter 281, O.S.L. 2014 and 49-135, as last amended
12 by Section 1, Chapter 134, O.S.L. 2015 (11 O.S. Supp.
13 2017, Sections 49-106.1 and 49-135), which relate to
14 volunteer firefighting services; modifying provisions
15 related to Deferred Retirement Option Plan; modifying
16 provisions related to certain volunteer services;
17 providing immunity for Oklahoma Firefighters Pension
18 and Retirement System from certain claims; providing
19 for waiver with respect to disability benefits; and
20 providing effective dates.

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

22 SECTION 1. AMENDATORY 62 O.S. 2011, Section 3103, is
23 amended to read as follows:

24 Section 3103. As used in the Oklahoma Pension Legislation
Actuarial Analysis Act:

1. "Amendment" means any amendment, including a substitute
bill, made to a retirement bill by any committee of the House or
Senate, any conference committee of the House or Senate or by the
House or Senate;

1 2. "RB number" means that number preceded by the letters "RB"
2 assigned to a retirement bill by the respective staffs of the
3 Oklahoma State Senate and the Oklahoma House of Representatives when
4 the respective staff office prepares a retirement bill for a member
5 of the Legislature;

6 3. "Legislative Actuary" means the firm or entity that enters
7 into a contract with the Legislative Service Bureau pursuant to
8 Section 452.15 of Title 74 of the Oklahoma Statutes to provide the
9 actuarial services and other duties provided for in the Oklahoma
10 Pension Legislation Actuarial Analysis Act;

11 4. "Nonfiscal amendment" means an amendment to a retirement
12 bill having a fiscal impact, which amendment does not change any
13 factor of an actuarial investigation specified in subsection A of
14 Section 3109 of this title;

15 5. "Nonfiscal retirement bill" means a retirement bill which
16 does not affect the cost or funding factors of a retirement system
17 or a retirement bill which affects such factors only in a manner
18 which ~~does not~~:

19 a. does not grant a benefit increase under the retirement
20 system affected by the bill,

21 b. does not create an actuarial accrued liability for or
22 increase the actuarial accrued liability of the
23 retirement system affected by the bill, ~~or~~

c. does not increase the normal cost of the retirement system affected by the bill except as otherwise provided by subparagraph a of this paragraph, or

d. authorizes a person to perform volunteer firefighter services according to the requirements of Section 49-135 of Title 11 of the Oklahoma Statutes and the provisions of Section 49-106.1 of Title 11 of the Oklahoma Statutes with respect to the Oklahoma Firefighters Deferred Option Retirement Plan.

A nonfiscal retirement bill shall include any retirement bill that has as its sole purpose the appropriation or distribution or redistribution of monies in some manner to a retirement system for purposes of reducing the unfunded liability of such system or the earmarking of a portion of the revenue from a tax to a retirement system or increasing the percentage of the revenue earmarked from a tax to a retirement system;i

6. "Reduction in cost amendment" means an amendment to a retirement bill having a fiscal impact which reduces the cost of the bill as such cost is determined by the actuarial investigation for the bill prepared pursuant to Section 3109 of this title;

7. "Retirement bill" means any bill or joint resolution introduced or any bill or joint resolution amended by a member of the Oklahoma Legislature which creates or amends any law directly affecting a retirement system. A retirement bill shall not mean a

1 bill or resolution that impacts the revenue of any state tax in
2 which a portion of the revenue generated from such tax is earmarked
3 for the benefit of a retirement system;

4 8. "Retirement bill having a fiscal impact" means any
5 retirement bill creating or establishing a retirement system and any
6 other retirement bill other than a nonfiscal retirement bill; and

7 9. "Retirement system" means the Teachers' Retirement System of
8 Oklahoma, the Oklahoma Public Employees Retirement System, the
9 Uniform Retirement System for Justices and Judges, the Oklahoma
10 Firefighters Pension and Retirement System, the Oklahoma Police
11 Pension and Retirement System, the Oklahoma Law Enforcement
12 Retirement System, or a retirement system established after January
13 1, 2006.

14 SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-106.1, as
15 last amended by Section 3, Chapter 281, O.S.L. 2014 (11 O.S. Supp.
16 2017, Section 49-106.1), is amended to read as follows:

17 Section 49-106.1 A. In lieu of terminating employment and
18 accepting a service retirement pension pursuant to Sections 49-101
19 and 49-106 of this title, any member of the Oklahoma Firefighters
20 Pension and Retirement System serving as an active firefighter in a
21 fire department of a participating municipality who has not less
22 than twenty (20) years of creditable service, or any member of the
23 Oklahoma Firefighters Pension and Retirement System whose first
24 employment with a participating employer of the System occurs on or

1 after November 1, 2013, and who has not less than twenty-two (22)
2 years of creditable service and who is eligible to receive a service
3 retirement pension may elect to participate in the Oklahoma
4 Firefighters Deferred Option Plan and defer the receipts of benefits
5 in accordance with the provisions of this section.

6 B. For purposes of this section, creditable service shall
7 include service credit reciprocally recognized pursuant to Sections
8 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2
9 of this title but for eligibility purposes only.

10 C. The duration of participation in the Oklahoma Firefighters
11 Deferred Option Plan for active firefighters shall not exceed five
12 (5) years. Participation in the Oklahoma Firefighters Deferred
13 Option Plan must begin the first day of a month and end on the last
14 day of a month. At the conclusion of a member's participation in
15 the Oklahoma Firefighters Deferred Option Plan, the member shall
16 terminate employment with all participating municipalities as a
17 firefighter, and shall start receiving the member's accrued monthly
18 retirement benefit from the System. Such a member may be reemployed
19 by a participating municipality but only in a position not covered
20 under the System, and receive in-service distributions of such
21 member's accrued monthly retirement benefit from the System. The
22 provisions of this subsection shall not prohibit a member from
23 performing volunteer services as authorized by Section 49-135 of
24 this title.

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

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

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

21 3. Effective November 1, 2013, the Oklahoma Firefighters
22 Deferred Option Plan account for a member whose first service with a
23 participating municipality of the System occurs on or after November
24 1, 2013, and who participates for the first time in the Oklahoma

1 Firefighters Deferred Option Plan on or after November 1, 2013, and
2 has completed active participation in the Oklahoma Firefighters
3 Deferred Option Plan, shall earn interest at a rate equal to the
4 actual rate of return of the investment portfolio of the System,
5 less one (1) percentage point to offset administrative costs of the
6 System as determined by the System.

7 F. A member in the plan shall receive, at the option of the
8 member, a lump-sum payment from the account equal to the payments to
9 the account or an annuity based upon the account of the member or
10 may elect any other method of payment if approved by the Board of
11 Trustees. If a member becomes so physically or mentally disabled
12 while in, or in consequence of, the performance of his or her duty
13 as to prevent the effective performance of his or her duties that
14 the State Board approves an in-line-of-duty disability pension, the
15 payment from the account shall be an in-line-of-duty disability
16 payment. Notwithstanding any other provision contained herein to
17 the contrary, commencement of distributions under the Oklahoma
18 Firefighters Deferred Option Plan shall be no later than the time as
19 set forth in subsection B of Section 49-106 of this title and a
20 member whose first service with a participating municipality of the
21 System occurs on or after November 1, 2013, and who participates for
22 the first time in the Oklahoma Firefighters Deferred Option Plan on
23 or after November 1, 2013, must receive a distribution of the entire
24 remaining balance in the member's Oklahoma Firefighters Deferred

Option Plan account no later than April 1 of the calendar year following the later of:

1. The calendar year in which the member reaches seventy and one-half (70 1/2) years of age; or

2. The actual retirement date of the member.

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

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

1 Firefighters Deferred Option Plan pursuant to this subsection as
2 follows:

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

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

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

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

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

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

6 2. At the termination date, the monthly pension benefit shall
7 be determined based on earlier attained credited service and on the
8 final average salary as of the back drop date. The member's
9 individual deferred option account shall be credited with an amount
10 equal to the deferred benefit balance, the member shall terminate
11 employment with all participating municipalities as a firefighter,
12 and shall start receiving the member's accrued monthly retirement
13 benefit from the System. Such a member may be reemployed by a
14 participating municipality but only in a position not covered under
15 the System, and receive in-service distributions of such member's
16 accrued monthly retirement benefit from the System; provided, the
17 provisions of this subsection shall not prohibit a member from
18 performing volunteer services as authorized by Section 49-135 of
19 this title. The provisions of subsections B, C, E, F and G of this
20 section shall apply to this subsection. A member shall not
21 participate in the Oklahoma Firefighters Deferred Option Plan
22 pursuant to this subsection if the member has elected to participate
23 in the Oklahoma Firefighters Deferred Option Plan pursuant to
24 subsections A, B, C, D, E and F of this section.

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

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

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

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

3 2. If a member who has more than twenty (20) years of
4 creditable service and is eligible to receive a service, or a member
5 of the Oklahoma Firefighters Pension and Retirement System whose
6 first employment with a participating employer of the System occurs
7 on or after November 1, 2013, and such member has more than twenty-
8 two (22) years of creditable service, retirement pension dies on or
9 after June 4, 2007, and prior to terminating employment, the
10 member's surviving spouse shall be eligible to elect to receive a
11 benefit determined as if the member had elected to participate in
12 the Oklahoma Firefighters Deferred Option Plan in accordance with
13 subsection H of this section on the day immediately preceding such
14 member's death. Prior to July 1, 2010, the surviving spouse must
15 make any such election within one (1) year from the date of the
16 member's death. Effective July 1, 2010, the surviving spouse must
17 make any such election within ninety (90) days from the date of the
18 member's death. If on or after June 4, 2007, such election is made,
19 the monthly pension such surviving spouse is entitled to receive
20 shall be adjusted in accordance with the provisions of subsection H
21 of this section to account for the member's participation in the
22 Oklahoma Firefighters Deferred Option Plan. The surviving spouse
23 may only make this election if the member has not previously elected
24 to participate in the Oklahoma Firefighters Deferred Option Plan.

1 For purposes of this election, the surviving spouse must have been
2 married to the firefighter for the thirty (30) continuous months
3 preceding the firefighter's death; provided, the surviving spouse of
4 a member who died while in, or as a consequence of, the performance
5 of the member's duty for a participating municipality shall not be
6 subject to the marriage limitation for this election.

7 3. If a member has more than twenty (20) years of creditable
8 service, or a member of the Oklahoma Firefighters Pension and
9 Retirement System whose first employment with a participating
10 employer of the System occurs on or after November 1, 2013, and such
11 member has more than twenty-two (22) years of creditable service and
12 is eligible to receive a service retirement pension, and is eligible
13 for a retirement for disability monthly pension pursuant to Section
14 49-109 of this title on or after June 4, 2007, such member shall be
15 eligible to elect to receive a benefit determined as if the member
16 had elected to participate in the Oklahoma Firefighters Deferred
17 Option Plan, in accordance with subsection H of this section, on the
18 day immediately preceding the date of the member's disability
19 retirement, provided such election is made within two (2) years from
20 the date of the member's disability retirement. The disability
21 monthly pension such member is receiving, or entitled to receive,
22 shall be adjusted in accordance with the provisions of subsection H
23 of this section to account for the member's participation in the
24 Oklahoma Firefighters Deferred Option Plan. The deferred benefit

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

9 4. If a member has more than twenty (20) years of creditable
10 service, or a member of the Oklahoma Firefighters Pension and
11 Retirement System whose first employment with a participating
12 employer of the System occurs on or after November 1, 2013, and such
13 member has more than twenty-two (22) years of creditable service and
14 is eligible to receive a service retirement pension, and filed a
15 grievance for wrongful termination occurring on or after June 4,
16 2007, or is not a member of a collective bargaining organization as
17 a firefighter, is involuntarily terminated and is seeking to have
18 his or her position as a firefighter reinstated through a legal
19 process, but is not reinstated as an active member, such member
20 shall be eligible to elect to receive a benefit determined as if the
21 member had elected to participate in the Oklahoma Firefighters
22 Deferred Option Plan in accordance with subsection H of this section
23 on the day immediately preceding the date of the member's
24 termination. Such election must be made within two (2) years from

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

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

1 modification or as modified to conform to any changes required by
2 the Internal Revenue Service as part of its determination letter
3 review process, then subparagraphs d and e of paragraph 1 and
4 paragraphs 3 and 4 of this subsection shall be repealed effective
5 June 4, 2007.

6 SECTION 3. AMENDATORY 11 O.S. 2011, Section 49-135, as
7 last amended by Section 1, Chapter 134, O.S.L. 2015 (11 O.S. Supp.
8 2017, Section 49-135), is amended to read as follows:

9 Section 49-135. A. No person shall be employed in a fire
10 department who has reached the age of forty-five (45) years, unless
11 it appears he or she shall become eligible for retirement at the age
12 of sixty-five (65) years, or at the age of sixty-seven (67) years
13 for a firefighter whose first service with a participating employer
14 of the System occurs on or after November 1, 2013, or unless he or
15 she be retired from a municipal fire department in the State of
16 Oklahoma. This section shall not apply to professional engineers,
17 or to persons employed as technical specialists on a temporary
18 basis. The State Board shall be authorized to establish the maximum
19 age, within the limits herein prescribed, over which an applicant
20 may not be considered for initial employment, but no person shall be
21 prohibited from making application for reemployment and having such
22 reemployment application considered merely because of his or her
23 age, provided that such person be under the age of forty-five (45)

1 years, and provided further, that such reemployment shall be with
2 the consent of the fire chief of such municipality.

3 B. ~~On or after the effective date of this act, a~~ A person who
4 performs volunteer services as a firefighter, who has attained the
5 age of forty-five (45) or more years as of the first date such
6 volunteer services are performed, for a municipality or a county,
7 shall not be eligible to be ~~a~~ an active member of the Oklahoma
8 Firefighters Pension and Retirement System for any purpose, shall
9 not be eligible for any benefit payable by the System, other than
10 the receipt of a benefit resulting from service as a paid
11 firefighter or a volunteer firefighter performed prior to the date
12 of volunteer services authorized by this subsection and which is
13 otherwise lawfully payable to a retired member of the System, and
14 shall not receive any form of service credit from the System
15 resulting from such volunteer services.

16 C. The System shall not be liable for any form of disability
17 benefit to a person who performs volunteer services authorized by
18 subsection B of this section resulting from any injury or other
19 condition alleged to have resulted from the performance of such
20 volunteer services. A person performing volunteer services
21 authorized by subsection B of this section shall be deemed to have
22 waived any claim to disability benefits from the System with respect
23 to such volunteer services and no person may recover any disability
24 benefit or other benefit from the System resulting from any injury

1 or other condition alleged to arise from the performance of such
2 volunteer services. The provisions of this subsection shall be an
3 affirmative and absolute defense to any claim or cause of action
4 asserted by or on behalf of a person performing volunteer services
5 as described by subsection B of this section.

6 D. The person responsible for decisions regarding the
7 performance of firefighting services having jurisdiction, which in
8 the absence of any other requirement to the contrary shall be the
9 Fire Chief, shall make the final determination on applicants for
10 positions that would involve the performance of volunteer
11 firefighting services if the applicant is over the age of forty-five
12 (45) years based on local rules, regulations, ordinances, guidelines
13 and standard operating procedures.

14 SECTION 4. Section 1 of this act shall become effective October
15 1, 2018.

16 SECTION 5. Sections 2 and 3 of this act shall become effective
17 November 1, 2018.

1 Passed the House of Representatives the 14th day of March, 2018.

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4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2018.

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8 Presiding Officer of the Senate