

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1706

By: McDaniel

AS INTRODUCED

An Act relating to the Oklahoma Firefighters Pension and Retirement System; amending 11 O.S. 2011, Sections 49-100.1, as last amended by Section 2, Chapter 388, O.S.L. 2013, 49-106, 49-106.1, as last amended by Section 3, Chapter 281, O.S.L. 2014 (11 O.S. Supp. 2016, Sections 49-100.1 and 49-106.1), which relate to definitions and administration of the System; modifying definitions; modifying provisions related to payment of benefits to members serving in certain capacity; modifying provisions related to the Deferred Retirement Option Plan; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 49-100.1, as last amended by Section 2, Chapter 388, O.S.L. 2013 (11 O.S. Supp. 2016, Section 49-100.1), is amended to read as follows:

Section 49-100.1 As used in this article:

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

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

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

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

6 5. "Fund" means the Oklahoma Firefighters Pension and
7 Retirement Fund;

8 6. "Member" means all eligible firefighters of a participating
9 municipality or a fire protection district who perform the essential
10 functions of fire suppression, prevention, and life safety duties in
11 a fire department. The term "member" shall include but not be
12 limited to the person serving as fire chief of any participating
13 municipality, provided that a person serving as fire chief of a
14 participating municipality shall meet the age, agility, physical and
15 other eligibility requirements required by law at the time said
16 person becomes a member of the System. Effective July 1, 1987, a
17 member does not include a "leased employee". The term "leased
18 employee" means any person (other than an employee of the recipient)
19 who pursuant to an agreement between the recipient and any other
20 person ("leasing organization") has performed services for the
21 recipient (or for the recipient and related persons determined in
22 accordance with Section 414(n)(6) of the Internal Revenue Code of
23 1986, as amended) on a substantially full-time basis for a period of
24 at least one (1) year, and such services are performed under primary

1 direction or control by the recipient. Contributions or benefits
2 provided a leased employee by the leasing organization which are
3 attributable to services performed for the recipient employer shall
4 be treated as provided by the recipient employer. A leased employee
5 shall not be considered an employee of the recipient if the
6 requirements of the safe harbor provisions of Section 414(n)(5) of
7 the Internal Revenue Code of 1986, as amended, are satisfied.
8 Effective July 1, 1999, any individual who agrees with the
9 participating municipality that the individual's services are to be
10 performed as a leased employee or an independent contractor shall
11 not be a member regardless of any classification as a common law
12 employee by the Internal Revenue Service or any other governmental
13 agency, or any court of competent jurisdiction;

14 7. "Normal retirement date" means the date at which the member
15 is eligible to receive the unreduced payments of the member's
16 accrued retirement benefit. Such date shall be the first day
17 following the date the member completes twenty (20) years of
18 credited service. For a member whose first employment with a
19 participating employer of the System occurs on or after November 1,
20 2013, such date shall be the first day following the date the member
21 completes twenty-two (22) years of credited service and has attained
22 the age of at least fifty (50) years. If the member's employment
23 continues past the normal retirement date of the member, the actual
24 retirement date of the member shall be the first day following the

1 date the member terminates employment with more than twenty (20)
2 years of credited service, or with respect to members who are
3 required to complete twenty-two (22) years of credited service, the
4 first day following the date the member terminates employment with
5 more than twenty-two (22) years of credited service and who has also
6 attained the age of at least fifty (50) years;

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

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

23 10. "Disability" means the complete inability of the
24 firefighter to perform any and every duty of the firefighter's

1 regular occupation; provided further, that once benefits have been
2 paid for twenty-four (24) months the provisions of Section 49-110 of
3 this title shall apply to the firefighter;

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

6 12. "Eligible employer" means any municipality with a municipal
7 fire department, any county fire department organized pursuant to
8 subsection D of Section 351 of Title 19 of the Oklahoma Statutes or
9 any fire protection district with an organized fire department;

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

13 14. "Final average salary" means the average paid gross salary
14 of the firefighter for normally scheduled hours over the highest
15 salaried thirty (30) consecutive months of the last sixty (60)
16 months of credited service. Gross salary shall not include payment
17 for accumulated sick or annual leave upon termination of employment,
18 any uniform allowances or any other compensation for reimbursement
19 of out-of-pocket expenses. Only salary on which the required
20 contributions have been made may be used in computing the final
21 average salary. Effective January 1, 1988, gross salary shall
22 include any amount of elective salary reduction under Section 125 of
23 the Internal Revenue Code of 1986, as amended. Gross salary shall
24 include any amount of elective salary reduction under Section 457 of

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

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

1 period, and the denominator of which is twelve (12). For purposes
2 of this subsection, a "Noneligible Member" is any member who first
3 became a member during a plan year commencing on or after July 1,
4 1996.

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

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

17 Effective June 9, 2010, any payments not described above shall
18 not be considered gross salary if paid after severance from
19 employment, even if they are paid by the later of two and one-half
20 (2 1/2) months after the date of severance from employment or the
21 end of the calendar year that includes the date of severance from
22 employment, except payments to an individual who does not currently
23 perform services for the participating municipality by reason of
24 qualified military service within the meaning of Section 414(u)(5)

1 of the Internal Revenue Code of 1986, as amended, to the extent
2 these payments do not exceed the amounts the individual would have
3 received if the individual had continued to perform services for the
4 participating municipality rather than entering qualified military
5 service.

6 Effective June 9, 2010, back pay, within the meaning of Section
7 1.415(c)-2(g)(8) of the Income Tax Regulations, shall be treated as
8 gross salary for the year to which the back pay relates to the
9 extent the back pay represents wages and compensation that would
10 otherwise be included in this definition.

11 Effective for years beginning after December 31, 2008, gross
12 salary shall also include differential wage payments under Section
13 414(u)(12) of the Internal Revenue Code of 1986, as amended;

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

17 16. "Beneficiary" means a member's surviving spouse or any
18 surviving children, including biological and adopted children, at
19 the time of the member's death. The surviving spouse must have been
20 married to the firefighter for the thirty (30) continuous months
21 preceding the firefighter's death provided a surviving spouse of a
22 member who died while in, or as a consequence of, the performance of
23 the member's duty for a participating municipality, shall not be
24 subject to the marriage limitation for survivor benefits. A

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

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

22 18. "Limitation year" means the year used in applying the
23 limitations of Section 415 of the Internal Revenue Code of 1986,
24 which year shall be the calendar year.

1 SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-106, is
2 amended to read as follows:

3 Section 49-106. A. Any firefighter who reaches the
4 firefighter's normal retirement date shall be entitled, upon written
5 request, to retire from such service and be paid from the System a
6 monthly pension equal to the member's accrued retirement benefit;
7 provided, that the pension shall cease during any period of time the
8 member may thereafter serve for compensation in any ~~municipal~~ fire
9 department ~~in the state~~ of a participating municipality. If ~~such~~ a
10 retired member is reemployed by a participating municipality in a
11 position which is not covered by the System and such position is not
12 within any fire department, retirement shall also include receipt by
13 such member of in-service distributions from the System.

14 B. With respect to distributions under the System made for
15 calendar years beginning on or after January 1, 2005, the System
16 shall apply the minimum distribution incidental benefit
17 requirements, incidental benefit requirements, and minimum
18 distribution requirements of Section 401(a)(9) of the Internal
19 Revenue Code of 1986, as amended, in accordance with the final
20 regulations under Section 401(a)(9) of the Internal Revenue Code of
21 1986, as amended, which were issued in April 2002 and June 2004,
22 notwithstanding any provision of the System to the contrary. With
23 respect to distributions under the System made for calendar years
24 beginning on or after January 1, 2001 through December 31, 2004, the

1 System shall apply the minimum distribution requirements and
2 incidental benefit requirements of Section 401(a)(9) of the Internal
3 Revenue Code of 1986, as amended, in accordance with the regulations
4 under Section 401(a)(9) of the Internal Revenue Code of 1986, as
5 amended, which were proposed in January 2001, notwithstanding any
6 provision of the System to the contrary. Effective July 1, 1989,
7 notwithstanding any other provision contained herein to the
8 contrary, in no event shall commencement of distribution of the
9 accrued retirement benefit of a member be delayed beyond April 1 of
10 the calendar year following the later of:

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

13 2. The actual retirement date of the member.

14 Effective September 8, 2009, notwithstanding anything to the
15 contrary of the System, the System, which is a governmental plan
16 (within the meaning of Section 414(d) of the Internal Revenue Code
17 of 1986, as amended) is treated as having complied with Section
18 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all
19 years to which Section 401(a)(9) of the Internal Revenue Code of
20 1986, as amended, applies to the System if the System complies with
21 a reasonable and good faith interpretation of Section 401(a)(9) of
22 the Internal Revenue Code of 1986, as amended.

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1 C. Any member or beneficiary eligible to receive a monthly
2 benefit from the System may make an election to waive all or a
3 portion of monthly benefits.

4 D. If the requirements of Section 49-106.5 of this title are
5 satisfied, a member who, by reason of attainment of normal
6 retirement date or age, is separated from service as a public safety
7 officer with the member's participating municipality, may elect to
8 have payment made directly to the provider for qualified health
9 insurance premiums by deduction from his or her monthly pension
10 payment, after December 31, 2006, in accordance with Section 402(1)
11 of the Internal Revenue Code of 1986, as amended.

12 SECTION 3. AMENDATORY 11 O.S. 2011, Section 49-106.1, as
13 last amended by Section 3, Chapter 281, O.S.L. 2014 (11 O.S. Supp.
14 2016, Section 49-106.1), is amended to read as follows:

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

1 retirement pension may elect to participate in the Oklahoma
2 Firefighters Deferred Option Plan and defer the receipts of benefits
3 in accordance with the provisions of this section.

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

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

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

1 Employer contributions for members who elect the Oklahoma
2 Firefighters Deferred Option Plan shall be credited equally to the
3 Oklahoma Firefighters Pension and Retirement System and to the
4 member's Oklahoma Firefighters Deferred Option Plan account. The
5 monthly retirement benefits that would have been payable had the
6 member elected to cease employment and receive a service retirement
7 shall be paid into the member's Oklahoma Firefighters Deferred
8 Option Plan account.

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

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

17 3. Effective November 1, 2013, the Oklahoma Firefighters
18 Deferred Option Plan account for a member whose first service with a
19 participating municipality of the System occurs on or after November
20 1, 2013, and who participates for the first time in the Oklahoma
21 Firefighters Deferred Option Plan on or after November 1, 2013, and
22 has completed active participation in the Oklahoma Firefighters
23 Deferred Option Plan, shall earn interest at a rate equal to the
24 actual rate of return of the investment portfolio of the System,

1 less one (1) percentage point to offset administrative costs of the
2 System as determined by the System.

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 and a
16 member whose first service with a participating municipality of the
17 System occurs on or after November 1, 2013, and who participates for
18 the first time in the Oklahoma Firefighters Deferred Option Plan on
19 or after November 1, 2013, must receive a distribution of the entire
20 remaining balance in the member's Oklahoma Firefighters Deferred
21 Option Plan account no later than April 1 of the calendar year
22 following the later of:

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

1 2. The actual retirement date of the member.

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

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

23 1. For purposes of this subsection and subsection I of this
24 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
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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 that is not within any fire department, and receive
13 in-service distributions of such member's accrued monthly retirement
14 benefit from the System. The provisions of subsections B, C, E, F
15 and G of this section shall apply to this subsection. A member
16 shall not participate in the Oklahoma Firefighters Deferred Option
17 Plan pursuant to this subsection if the member has elected to
18 participate in the Oklahoma Firefighters Deferred Option Plan
19 pursuant to subsections A, B, C, D, E and F of 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,~~ or a member
23 of the Oklahoma Firefighters Pension and Retirement System whose
24 first employment with a participating employer of the System occurs

1 on or after November 1, 2013, and such member has more than twenty-
2 two (22) years of creditable service, and is eligible to receive a
3 service retirement pension dies, on or after June 4, 2007, and prior
4 to terminating employment, the member's surviving spouse shall be
5 eligible to elect to receive a benefit determined as if the member
6 had elected to participate in the Oklahoma Firefighters Deferred
7 Option Plan in accordance with subsection H of this section on the
8 day immediately preceding such member's death. Prior to July 1,
9 2010, the surviving spouse must make any such election within one
10 (1) year from the date of the member's death. Effective July 1,
11 2010, the surviving spouse must make any such election within ninety
12 (90) days from the date of the member's death. If on or after June
13 4, 2007, such election is made, the monthly pension such surviving
14 spouse is entitled to receive shall be adjusted in accordance with
15 the provisions of subsection H of this section to account for the
16 member's participation in the Oklahoma Firefighters Deferred Option
17 Plan. The surviving spouse may only make this election if the
18 member has not previously elected to participate in the Oklahoma
19 Firefighters Deferred Option Plan. For purposes of this election,
20 the surviving spouse must have been married to the firefighter for
21 the thirty (30) continuous months preceding the firefighter's death;
22 provided, the surviving spouse of a member who died while in, or as
23 a consequence of, the performance of the member's duty for a
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1 participating municipality shall not be subject to the marriage
2 limitation for this election.

3 3. If a member has more than twenty (20) years of creditable
4 service, or a member of the Oklahoma Firefighters Pension and
5 Retirement System whose first employment with a participating
6 employer of the System occurs on or after November 1, 2013, and such
7 member has more than twenty-two (22) years of creditable service and
8 is eligible to receive a service retirement pension, and is eligible
9 for a retirement for disability monthly pension pursuant to Section
10 49-109 of this title on or after June 4, 2007, such member shall be
11 eligible to elect to receive a benefit determined as if the member
12 had elected to participate in the Oklahoma Firefighters Deferred
13 Option Plan, in accordance with subsection H of this section, on the
14 day immediately preceding the date of the member's disability
15 retirement, provided such election is made within two (2) years from
16 the date of the member's disability retirement. The disability
17 monthly pension such member is receiving, or entitled to receive,
18 shall be adjusted in accordance with the provisions of subsection H
19 of this section to account for the member's participation in the
20 Oklahoma Firefighters Deferred Option Plan. The deferred benefit
21 balance such member is entitled to receive shall be reduced by the
22 back drop pension adjustment amount and increased by the deferred
23 benefit balance adjustment amount. The member may only make a back
24 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, or a member of the Oklahoma Firefighters Pension and Retirement System whose first employment with a participating employer of the System occurs on or after November 1, 2013, and such member has more than twenty-two (22) years of creditable service and is eligible to receive a service retirement pension, and filed a grievance for wrongful termination occurring on or after June 4, 2007, or is not a member of a collective bargaining organization as a firefighter, is involuntarily terminated and is seeking to have his or her position as a firefighter reinstated through a legal process, 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 subsection H of this section on the day immediately preceding the date of the member's termination. Such election must be made within two (2) years from the date of the member's termination as an active member and, if the member's case pertaining to the member's termination is on appeal to a court of competent jurisdiction, within such period set by the State Board in its sole discretion. The monthly pension such member

1 is receiving, or entitled to receive, shall be adjusted in
2 accordance with the provisions of subsection H of this section to
3 account for the member's participation in the Oklahoma Firefighters
4 Deferred Option Plan. The deferred benefit balance such member is
5 entitled to receive shall be reduced by the back drop pension
6 adjustment amount and increased by the deferred benefit balance
7 adjustment amount. The member may only make a back drop election if
8 the deferred benefit balance after the adjustment described in this
9 paragraph is greater than Zero Dollars (\$0.00). The member may only
10 make this election if the member has not previously elected to
11 participate in the Oklahoma Firefighters Deferred Option Plan.

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

3 SECTION 4. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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8 56-1-6698 MAH 01/18/17
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THOMAS E. CUMMINS CONSULTING ACTUARY, INC.

2512 E. 71st Street , Suite D · Tulsa, Oklahoma 74136

(918) 492-9658 · (918) 492- 9659

January 19, 2017

Representative Randy McDaniel
Room 438

Re: RBH No. 6698

RBH No. 6698 contains IRS compliance language concerning distributions from the Oklahoma Firefighters Pension and Retirement System. It also contains clarification language dealing with service.

RBH No. 6698 is a non fiscal bill as defined by the Oklahoma Pension Legislation Analysis Act because the amendment does not contain a benefit increase nor create liability.

I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Thomas E. Cummins

Thomas E. Cummins, MAAA