

An Act

ENROLLED HOUSE
BILL NO. 1091

By: Kelley of the House

and

Gollihare of the Senate

An Act relating to retirement; amending 11 O.S. 2021, Sections 49-100.1, as amended by Section 2, Chapter 232, O.S.L. 2022, 49-113, 49-117.1, as amended by Section 7, Chapter 232, O.S.L. 2022, 49-117.3, and 49-138, as amended by Section 2, Chapter 247, O.S.L. 2024 (11 O.S. Supp. 2024, Sections 49-100.1, 49-117.1, and 49-138), which relate to the Oklahoma Firefighters Pension and Retirement System; defining term; modifying provisions related to death benefits; specifying which contributions member is to be refunded; modifying provisions relating to repayment of contributions; authorizing member to make certain repayment; authorizing amortized payment if permitted by State Board; directing the State Board to promulgate rules or procedures; providing that member may purchase transferred credited services; providing procedures; providing limitations; providing exception; modifying how payments may be made; updating reference; providing limitation on purchase of military service credit; providing limitation on purchase of credited service; providing for purchase of military service credit; providing requirements to purchase such credit; providing restrictions; permitting volunteer members to purchase military service credit; requiring payment to be received prior to commencement of benefits; providing for codification; and declaring an emergency.

SUBJECT: Retirement

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

SECTION 1. AMENDATORY 11 O.S. 2021, Section 49-100.1, as amended by Section 2, Chapter 232, O.S.L. 2022 (11 O.S. Supp. 2024, 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;

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

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

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

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

6. "Member" means all eligible firefighters of a participating municipality or a fire protection district who perform the essential functions of fire suppression, prevention, and life safety duties in a fire department. The term "member" shall include but not be limited to the person serving as fire chief of any participating municipality, provided that a person serving as fire chief of a participating municipality shall meet the age, agility, physical and other eligibility requirements required by law at the time said person becomes a member of the System. Effective July 1, 1987, a member does not include a "leased employee". The term "leased employee" means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Section 414(n)(6) of the Internal Revenue Code of 1986, as amended) on a substantially full-time basis for a period of at least one (1) year, and such services are performed under primary direction or control by the recipient. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer. A leased employee shall not be considered an employee of the recipient if the requirements of the safe harbor provisions of Section 414(n)(5) of the Internal Revenue Code of 1986, as amended, are satisfied.

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

7. "Normal retirement date" means the date at which the member is eligible to receive the unreduced payments of the member's accrued retirement benefit. Such date shall be the first day following the date the member completes twenty (20) years of credited service. If the member's employment continues past the normal retirement date of the member, the actual retirement date of the member shall be the first day following the date the member terminates employment with more than twenty (20) years of credited service;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17. "Contributions" means payments remitted to the System pursuant to Section 49-122 or subsection A of Section 49-138 of this title. Contributions shall not include payments made to repurchase credited service pursuant to Section 49-117.1 of this title, payments made to transfer credited service from another retirement system pursuant to subsection A of Section 49-117.2 or Section 49-117.3 of this title, or payments made to purchase prior military service credit pursuant to subsection E of Section 49-138 of this title;

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

~~18.~~ 19. "Limitation year" means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, which year shall be the calendar year.

SECTION 2. AMENDATORY 11 O.S. 2021, Section 49-113, is amended to read as follows:

Section 49-113. A. 1. In the event of the death of a firefighter who at the time of the firefighter's death was drawing a pension, other than a disability pension, or who at the time of the firefighter's death (whether death occurred while on duty, but not in or in consequence of the performance of duty, or while on vacation or off duty) was eligible, upon written request, to retire and draw a pension, other than a disability pension, the beneficiary of such person shall be paid an amount not to exceed one hundred percent (100%) of said pension.

2. In the event of the death of a firefighter who at the time of the firefighter's death was drawing, or eligible to draw, a disability pension for a physical or mental disability that occurred while in, or in consequence of, the performance of the firefighter's duty, and which prevented the effective performance of the firefighter's duties, and which caused the State Board to retire the firefighter from active service, the beneficiary of such person shall be paid an amount not to exceed one hundred percent (100%) of the pension paid in accordance with subsection A of Section 49-109 of this title.

3. In the event of the death of a firefighter who at the time of the firefighter's death was drawing, or eligible to draw, a disability pension for a physical or mental disability from causes not arising in the line of duty and which prevented the effective performance of the firefighter's duties, the beneficiary of such person shall be paid an amount not to exceed one hundred percent (100%) of the pension paid in accordance with subsection C of Section 49-109 of this title.

4. ~~Effective March 1, 1997, if~~ If a firefighter, who does not have a surviving beneficiary, and to whom a retirement or disability benefit has been awarded, or who is eligible therefore, dies or, if later, the last surviving beneficiary dies, prior to the date as of which the total amount of retirement or disability benefit paid equals the total amount of the employee contributions paid by or on behalf of the member and the member does not have a surviving beneficiary, the total benefits paid as of the date of the member's

~~death shall be subtracted from the accumulated employee contribution amount and the balance, if greater than Zero Dollars (\$0.00), shall be paid to the member's estate receiving payments equal to or greater than the total contributions made by the employee, as defined in the next sentence, then a payment shall be made to the member's estate or, if applicable, the last surviving beneficiary's estate equal to the total contributions made by the employee minus the payments made including payments made, or to be made, from the Deferred Option Plan but excluding the death benefit pursuant to Section 49-113.2 of this title. The total contributions made by the employee for purposes of the prior sentence shall mean the sum of:~~

- a. the member's accumulated contributions,
- b. payments made to repurchase credited service pursuant to Section 49-117.1 of this title,
- c. payments made to transfer credited service from another retirement system pursuant to subsection A of Section 49-117.2 or Section 49-117.3 of this title, and
- d. payments made to purchase prior military service credit pursuant to subsection E of Section 49-138 of this title.

Total contributions, as used in this paragraph, shall exclude interest earned or paid with respect to any contribution or payment described in subparagraphs a through d of this paragraph.

5. Any person eligible to receive a payment pursuant to this section may make an election to waive all or a portion of monthly payments.

B. In the event of the death of the surviving spouse, the pension shall cease, and should there then be but one living child same shall receive an amount equal to one hundred percent (100%) of said pension, but if there then be more than one living child, one hundred percent (100%) of said pension shall be divided equally between the children until each child reaches the age of eighteen (18) years or until the age of twenty-two (22) years if the child is enrolled full time and regularly attending a public or private school or any institution of higher education. Provided, that in the event the State Board finds that such a child who is not married at the time of death of the member or the member's surviving spouse

and who at the time the child attains or attained the age of eighteen (18) years is either physically or mentally disabled, the pension thereof shall continue so long as such disability remains; provided, that upon the death of the firefighter and surviving spouse, if any, said physically or mentally disabled child shall be entitled to have paid to the child's trustee of a trust, whether inter vivos or testamentary, which trust provides for the receipt of the pension benefits to be held and administered for the sole benefit of said physically or mentally disabled child, or if there is no trust, to the child's legally appointed guardian, an amount not to exceed one hundred percent (100%) of said pension. The money so paid to the guardian or trustee shall be used solely for the benefit of the disabled child and it shall be reported annually to the State Board. A child shall not be considered disabled if the child is able to pursue a remunerative occupation, with the remuneration being reasonably substantial rather than merely nominal. The payment so provided shall be calculated after payments have been made to all eligible children as provided in this section; provided further, that beneficiaries now receiving pensions under the provisions of Sections 49-112 or 49-113 of this title shall, upon application to the State Board, thereafter be entitled to a pension equal to the amount which they would have received if this act were in effect at the time the right to said pension accrued.

C. In the event a surviving spouse of a member remarried prior to June 7, 1993, the surviving spouse shall be eligible to receive the pension benefits provided for in this section. To receive the pension benefits provided for in this section the surviving spouse falling within this section shall submit a written request for such benefits to the Oklahoma Firefighters Pension and Retirement System. The Oklahoma Firefighters Pension and Retirement System shall approve requests by surviving spouses meeting the requirements of this section. Upon approval by the Oklahoma Firefighters Pension and Retirement System, the surviving spouse shall be entitled to the pension benefits provided for in this section beginning from the date of approval forward. Pension benefits provided to surviving spouses falling within this section shall not apply to alter any amount of pension benefits paid or due prior to the Oklahoma Firefighters Pension and Retirement System's approval of the remarried surviving spouse's written request for benefits.

D. No surviving spouse shall receive benefits from this section, Section 50-117 of this title, or Section 2-306 of Title 47 of the Oklahoma Statutes as the surviving spouse of more than one member of the Oklahoma Firefighters Pension and Retirement System,

the Oklahoma Police Pension and Retirement System, or the Oklahoma Law Enforcement Retirement System. The surviving spouse of more than one member shall elect which member's benefits he or she will receive.

E. Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the beneficiary of the member or to the member's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

F. Upon the death of an unmarried firefighter, or a firefighter whose spouse does not meet the qualifications of beneficiary who has one or more children, said child or children shall receive pension benefits as provided in subsection B of this section as if the surviving spouse had died; provided, that upon the death of the firefighter, said child or children shall be entitled to have the System pay to the child's or children's trustee of a trust, whether inter vivos or testamentary, which trust provides for the receipt of the pension benefits to be held and administered for the sole benefit of said child, or if there is no trust, to the child's or children's legally appointed guardian, the pension benefits as provided in subsection B of this section in an amount not to exceed one hundred percent (100%) of said pension. The money so paid to the guardian or trustee shall be used solely for the benefit of the child and it shall be reported annually to the State Board.

SECTION 3. AMENDATORY 11 O.S. 2021, Section 49-117.1, as amended by Section 7, Chapter 232, O.S.L. 2022 (11 O.S. Supp. 2024, Section 49-117.1), is amended to read as follows:

Section 49-117.1. A. A member who terminates service before normal retirement date, other than by death or disability shall, upon application filed with the State Board, be refunded from the Fund an amount equal to the ~~accumulated~~ sum of:

1. Accumulated contributions the member has made to the Fund,
~~but excluding any interest or;~~

2. Payments made to repurchase credited service pursuant to this section;

3. Payments made to transfer credited service from another retirement system pursuant to subsection A of Section 49-117.2 or Section 49-117.3 of this title; and

4. Payments made to purchase prior military service credit pursuant to subsection E of Section 49-138 of this title.

A refund made pursuant to this paragraph shall exclude interest earned or paid with respect to any contribution or payment described in subparagraphs 1 through 4 of this subsection, and any amount contributed by the municipality or state, and interest earned with respect to such contributed amount.

B. If a member has completed ten (10) years of credited service at the date of termination, the member may elect a vested benefit in lieu of receiving the ~~member's accumulated contributions~~ refund described in subsection A of this section.

C. If the member who has completed ten (10) or more years of credited service as prescribed by subsection B of this section elects the vested benefit, the member shall be entitled to a monthly retirement annuity commencing on the date the member reaches fifty (50) years of age or the date the member would have had twenty (20) years of credited service had the member's employment continued uninterrupted, whichever is later. The annual amount of such retirement annuity shall be equal to two and one-half percent (2 1/2%) of the annualized final average salary multiplied by the number of years of credited service not to exceed thirty (30) years. The death benefits provided for in Section 49-113.2 of this title shall not apply to any member retiring under the provisions of this section.

D. If a member who terminated employment and elected, or was eligible to elect, a vested benefit dies prior to being eligible to receive benefits, the member's beneficiary, as defined in paragraph 16 of Section 49-100.1 of this title, shall be entitled to the member's normal monthly retirement benefit on the date the deceased member would have been eligible to receive the benefit.

E. If a member terminates employment and withdraws the member's accumulated contributions and then subsequently rejoins the System, he may pay to the System the sum of the accumulated contributions he has withdrawn plus ~~five percent (5%)~~ ten percent (10%) annual interest from the date of withdrawal to the date of repayment and shall receive the same benefits as if he had never withdrawn his

~~contributions; however, effective January 1, 1991, the rate of interest provided herein shall be ten percent (10%) per annum.~~

~~F. Lump-sum payments for repayment of any amounts received because of a member's prior termination with interest may be repaid by a trustee-to-trustee transfer of non-Roth funds from a Code Section 403(b) annuity, a governmental Code Section 457 plan, and/or a Code Section 401(a) qualified plan. Members may make the repayment described in subsection E of this section in cash by a trustee-to-trustee transfer or direct rollover of non-Roth funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), a Code Section 401(a) qualified plan, or a combination thereof, provided that after-tax funds in retirement plans shall not be used to make a repayment.~~

G. In the event the member does not pay the purchase price in whole or part pursuant to subsection F of this section, the State Board may permit the member to pay the remaining purchase price in cash by certified check, to amortize the remaining purchase price over a period not to exceed sixty (60) months, or other method approved by the State Board. Any amortized payments under this subsection shall be made by payroll deductions on an after-tax basis and shall not be picked up by the member's employer. The amortized payments shall include interest at a rate not to exceed the actuarially assumed interest rate adopted by the State Board for investment earnings each year. Any member who ceases to make payment, terminates, retires, or dies before completing the payments provided for in this subsection shall receive prorated service credit for only those payments made, not including interest, unless the unpaid balance, including interest, is paid by the member, the member's surviving spouse, the member's beneficiary, or the member's estate or successor in interest within ninety (90) days after the first to occur of said member's termination, retirement, or death; provided that no retirement benefits shall be payable until the earliest of the date the unpaid balance is paid in full or ninety (90) days after the first to occur of the member's termination, retirement, or death.

H. A firefighter shall not be permitted to withdraw from the System while employed as a firefighter in a participating municipality.

I. The State Board shall promulgate such rules or procedures as are necessary to implement the provisions of this section.

SECTION 4. AMENDATORY 11 O.S. 2021, Section 49-117.3, is amended to read as follows:

Section 49-117.3. A. The State Board shall adopt rules or procedures for computation of the purchase price for transferred credited service. These rules or procedures shall base the purchase price for each year purchased on the actuarial cost of the incremental projected benefits to be purchased. The purchase price shall represent the present value of the incremental projected benefits discounted according to the member's age at the time of purchase. Incremental projected benefits shall be the difference between the projected benefit said member would receive without purchasing the transferred credited service and the projected benefit after purchase of the transferred credited service computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

~~B. In the event that the member is unable to pay the purchase price provided for in this section by the due date, the State Board shall permit the members to amortize the purchase price over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the State Board permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the State Board for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance. The State Board shall promulgate such rules as are necessary to implement the provisions of this subsection~~ A member wishing to purchase transferred credited service from another retirement system must be an active paid member at the time of purchase and must have been an active paid member for a minimum of thirty (30) months so as

to establish an adequate salary history for the computation of the purchase price of transferred credited service. Upon application by an eligible member to purchase transferred credited service, the State Board shall provide the member with a computation of the purchase price for transferred credited service. The computed purchase price shall be good for ninety (90) days from the date the computed purchase price is provided to the member and, except as otherwise provided in subsection F of this section, must be paid within such ninety-day period. After the expiration of the ninety-day period without payment by the member, or payment commencing as provided in subsection F of this section, the member must reapply to purchase transferred credited service, a new purchase price must be computed and provided to the member by the State Board, and a new ninety-day period shall commence.

C. Transferred credited service shall be taken into account only if payment is received prior to the commencement of benefits, except as otherwise provided in subsection F of this section.

~~C.~~ D. Members who pay the purchase price in cash by the due date described in subsection B of this section may make payment by:

1. A trustee-to-trustee transfer of non-Roth funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), and/or a Code Section 401(a) qualified plan, provided that after-tax funds in retirement plans shall not be used to purchase transferred credited service; ~~or~~

2. A direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA), provided that Roth accounts, after-tax funds in retirement plans or IRAs, and Coverdell Education Savings Accounts shall not be used to purchase transferred credited service; or

3. Certified check.

A combination of payment methods described in paragraphs 1 through 3 of this subsection may be used.

The State Board shall promulgate such rules or procedures as are necessary to implement the provisions of this subsection.

~~D.~~ E. Members amortizing the purchase price and making amortized payments by payroll deduction on an after-tax basis, pursuant to subsection F of this section, shall have the option of making a cash ~~lump-sum~~ payment for the balance of the actuarial purchase price with interest due through the date of payment by:

1. A trustee-to-trustee transfer of non-Roth funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), and/or a Code Section 401(a) qualified plan, provided that after-tax funds in retirement plans shall not be used to purchase transferred credited service; or

2. A direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA), provided that Roth accounts, after-tax funds in retirement plans or IRAs, and Coverdell Education Savings Accounts shall not be used to purchase transferred credited service; or

3. Certified check.

A combination of payment methods described in paragraphs 1 through 3 of this subsection may be used.

F. In the event that the member does not pay the purchase price provided for in this section by the due date established in subsection B of this section as provided for in subsection D of this section, the State Board may permit the member to amortize the purchase price over a period not to exceed sixty (60) months or other method approved by the State Board. Such amortized payments shall be made by payroll deductions on an after-tax basis and shall not be picked up by the member's employer. The amortized payments shall include interest at a rate not to exceed the actuarially assumed interest rate adopted by the State Board for investment earnings each year. Any member who ceases to make payment,

terminates, retires or dies before completing the payments provided for in this section shall receive transferred, credited service prorated for only those payments made, not including interest, unless the unpaid balance, including interest, is paid by the member, the member's surviving spouse, the member's beneficiary, or the member's estate or successor in interest within ninety (90) days of the first to occur of said member's termination, retirement, or death; provided that no retirement benefits shall be payable until the earliest of the date the unpaid balance is paid in full or ninety (90) days after the first to occur of the member's termination, retirement, or death.

G. The State Board shall promulgate such rules or procedures as are necessary to implement the provisions of this subsection
section.

SECTION 5. AMENDATORY 11 O.S. 2021, Section 49-138, as amended by Section 2, Chapter 247, O.S.L. 2024 (11 O.S. Supp. 2024, Section 49-138), is amended to read as follows:

Section 49-138. A. Any member of a regularly constituted fire department of any municipality who is now serving or may hereafter serve in the Armed Forces of the United States whether such service is voluntary or involuntary, who shall have been a member of such fire department at the time of entering such service, shall be entitled to have the whole of the time of such service applied under the provisions of Section 49-106 of this title, so far as the same applies to a service pension; provided further, that the municipality shall continue its payment into said pension fund, to the same force and effect as though the member were in the actual service of such fire department; provided, that any person who is eligible for such service but who shall have volunteered for military or naval service for a period not to exceed five (5) years shall likewise be entitled to all of the benefits of Sections 49-138 through 49-142 of this title for the full period of such service or enlistment; provided further, that only one such period of voluntary service shall be considered hereunder. If such person shall reenlist, unless required to do so by law, such person shall not thereafter be entitled to the provisions of this subsection. The provisions of this subsection shall not apply where any such person dies during the period of said service or enlistment, and shall not entitle the surviving spouse or children to any benefits, and shall not apply to any member who shall have served on active duty (including initial active duty) for training purposes only and/or inactive duty training.

B. Effective February 1, 1997, credited service received pursuant to this section or credited service for wartime military service received as otherwise provided by law shall be used in determining the member's retirement benefit but shall not be used in determining years of service for retirement, vesting purposes or eligibility for participation in the Oklahoma Firefighters Deferred Option Plan. For a member of the System hired on or after July 1, 2003, if the military service credit authorized by this section is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other retirement system created pursuant to the Oklahoma Statutes and the member may receive credit for such service only in the retirement system from which the member first retires.

C. A member who retires or elects to participate in the Oklahoma Firefighters Deferred Option Plan on or after July 1, 1998, shall be entitled to prior service credit, not to exceed five (5) years, for those periods of military service on active duty prior to membership in the Oklahoma Firefighters Pension and Retirement System.

For purposes of this subsection, "military service" means service in the Armed Forces of the United States by honorably discharged persons during the following time periods, as reflected on such person's Defense Department Form 214, as follows:

1. During the following periods, including the beginning and ending dates, and only for the periods served, from:

- a. April 6, 1917, to November 11, 1918, commonly referred to as World War I,
- b. September 16, 1940, to December 7, 1941, for members of the 45th Division,
- c. December 7, 1941, to December 31, 1946, commonly referred to as World War II,
- d. June 27, 1950, to January 31, 1955, commonly referred to as the Korean Conflict or the Korean War,
- e. February 28, 1961, to May 7, 1975, commonly referred to as the Vietnam era, except that:

- (1) for the period from February 28, 1961, to August 4, 1964, military service shall only include service in the Republic of Vietnam during that period, and
 - (2) for purposes of determining eligibility for education and training benefits, such period shall end on December 31, 1976, or
- f. August 1, 1990, to December 31, 1991, commonly referred to as the Gulf War, the Persian Gulf War, or Operation Desert Storm, but excluding any person who served on active duty for training only, unless discharged from such active duty for a service-connected disability;

2. During a period of war or combat military operation other than a conflict, war or era listed in paragraph 1 of this subsection, beginning on the date of Congressional authorization, Congressional resolution, or Executive Order of the President of the United States, for the use of the Armed Forces of the United States in a war or combat military operation, if such war or combat military operation lasted for a period of ninety (90) days or more, for a person who served, and only for the period served, in the area of responsibility of the war or combat military operation, but excluding a person who served on active duty for training only, unless discharged from such active duty for a service-connected disability, and provided that the burden of proof of military service during this period shall be with the member, who must present appropriate documentation establishing such service.

D. An eligible member pursuant to subsection C of this section shall include only those persons who shall have served during the times or in the areas prescribed in subsection C of this section, and only if such person provides appropriate documentation in such time and manner as required by the System to establish such military service prescribed in this section, or for service pursuant to division (1) of subparagraph e of paragraph 1 of subsection C of this section, those persons who were awarded service medals, as authorized by the United States Department of Defense as reflected in the veteran's Defense Department Form 214, related to the Vietnam Conflict for service prior to August 5, 1964. The provisions of subsection C of this section shall include military retirees, whose retirement was based only on active service, that have been rated as

having twenty percent (20%) or greater service-connected disability by the Veterans Administration or the Armed Forces of the United States. The provisions of subsection C of this section shall not apply to any person who shall have served on active duty for training purposes only unless discharged from active duty for a service-connected disability.

E. A member of the System who served in the Armed Forces of the United States, or any component thereof, who was honorably discharged from full-time active military service prior to becoming a member of the System and whose full-time active duty military service does not otherwise meet the qualifications for prior service credit pursuant to subsections B through D of this section may purchase up to five (5) years of full-time active duty military prior service credit at the actuarial cost of service credit as determined by the Oklahoma Firefighters Pension and Retirement System Board, pursuant to ~~Section 49-117.3~~ Section 7 of this ~~title~~ act.

The service credit provided by this subsection shall be administered pursuant to subsections B through D of this section, including, but not limited to, only full-time active duty military service not for training-only purposes, unless discharged from active duty for a service-connected disability, as reflected on the member's Defense Department Form 214, shall be considered for prior service credit, and such prior service credit shall only be used in determining the member's retirement benefit but shall not be used in determining years of service for retirement, vesting purposes, or eligibility for participation in the Oklahoma Firefighters Deferred Option Plan.

F. Notwithstanding any provision herein to the contrary:

1. Contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986, as amended, which is in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA); and

2. Effective January 1, 2007, if any member dies while performing qualified military service (as defined in Section 414(u) of the Internal Revenue Code of 1986, as amended), the survivors of the member are entitled to any additional benefits (other than benefits accruals relating to the period of qualified military

service) provided under the System had the member resumed and then terminated employment on account of death.

G. Members or beneficiaries shall make application to the System for credited service related to wartime military service. Interest on additional benefits related to wartime military service owed by the System to a retired member or beneficiary as provided by law shall cease accruing one (1) year after the effective date the additional benefits are payable by the System or July 1, 2000, whichever is later, if the member has not applied to the System for credited service related to such wartime military service.

H. The purchase of prior military service credit pursuant to subsections B, C, D, and G shall not, in the aggregate, exceed five (5) years of service credit.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 49-117.4 of Title 11, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any other provision in Section 49-100.1 et seq. of Title 11 of the Oklahoma Statutes, the maximum number of years of credited service taken into account under the System shall not exceed thirty (30) years.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 49-138.1 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. The State Board shall adopt rules or procedures for computation of the purchase price for prior military service credit provided for in subsection E of Section 49-138 of Title 11 of the Oklahoma Statutes. These rules or procedures shall base the purchase price for each year purchased on the actuarial cost of the incremental projected benefits to be purchased. The purchase price shall represent the present value of the incremental projected benefits discounted according to the member's age at the time of purchase. Incremental projected benefits shall be the difference between the projected benefit said member would receive without purchasing the prior military service credit and the projected benefit after purchase of the prior military service credit computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the

actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

B. A member wishing to purchase prior military service credit must be an active paid member for a minimum of thirty (30) months so as to establish an adequate salary history for the computation of the purchase price of prior military service credit. Upon application by an eligible member to purchase prior military service credit, the State Board shall provide the member with a computation of the purchase price for prior military service credit. The computed purchase price shall be good for ninety (90) days from the date the computed purchase price is provided to the member and, except as otherwise provided in subsection G of this section, must be paid within such ninety-day period. After the expiration of the ninety-day period without payment by the member, or payment commencing as provided in subsection G of this section, the member must reapply to purchase prior military service credit, a new purchase price must be computed and provided to the member by the State Board, and a new ninety-day period shall commence.

C. An active volunteer member may request to purchase volunteer prior military service credit in accordance with the second, third, and fourth sentences of subsection B of this section. A volunteer member who purchases volunteer prior military service credit and later becomes a paid member may purchase paid prior military service credit in accordance with all of subsection B of this section, including the requirement that the member be an active paid member for a minimum of thirty (30) months so as to establish an adequate salary history for the computation of the purchase price of prior military service credit. Any amount paid to purchase volunteer prior military service credit, excluding interest, shall reduce the purchase price for the paid prior military service credit, and the purchased volunteer prior military service credit shall be disregarded.

D. Purchased prior military service credit shall be taken into account only if payment is received prior to the commencement of benefits, except as otherwise provided in subsection G of this section.

E. Members who pay the purchase price in cash by the due date described in subsection B of this section may make payment by:

1. A trustee-to-trustee transfer of non-Roth funds from a Code Section 403(b) annuity or custodial account, an eligible deferred

compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), and/or a Code Section 401(a) qualified plan, provided that after-tax funds in retirement plans shall not be used to purchase military service credit;

2. A direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA), provided that Roth accounts, after-tax funds in retirement plans or IRAs, and Coverdell Education Savings Accounts shall not be used to purchase military service credit; or

3. Certified check.

A combination of payment methods described in paragraphs 1 through 3 of this subsection may be used.

F. Members amortizing the purchase price and making amortized payments by payroll deduction on an after-tax basis, as described in subsection G of this section, shall have the option of making a cash payment for the balance of the actuarial purchase price with interest due through the date of payment by:

1. A trustee-to-trustee transfer of non-Roth funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), and/or a Code Section 401(a) qualified plan, provided that after-tax funds in retirement plans shall not be used to purchase military service credit;

2. A direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), a Code Section 401(a) qualified plan, and a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA), provided that Roth accounts, after-tax funds in retirement plans and IRAs, and Coverdell

Education Savings Accounts shall not be used to purchase military service credit; or

3. Certified check.

A combination of payment methods described in paragraphs 1 through 3 of this subsection may be used.

G. In the event that the member does not pay the purchase price provided for in this section by the due date established in subsection B of this section as provided for in subsection E of this section, the State Board may permit the member to amortize the purchase price over a period not to exceed sixty (60) months or other method approved by the State Board. Such amortized payments shall be made by payroll deductions on an after-tax basis and shall not be picked up by the member's employer. The amortized payments shall include interest at a rate not to exceed the actuarially assumed interest rate adopted by the State Board for investment earnings each year. Any member who ceases to make payment, terminates, retires, or dies before completing the payments provided for in this section shall receive prior military service credit prorated for only those payments made, not including interest, unless the unpaid balance, including interest, is paid by the member, the member's surviving spouse, the member's beneficiary, or the member's estate or successor in interest within ninety (90) days of the first to occur of said member's termination, retirement, or death; provided that no retirement benefits shall be payable until the earliest of the date the unpaid balance is paid in full or ninety (90) days after the first to occur of the member's termination, retirement, or death.

H. The State Board shall promulgate such rules or procedures as are necessary to implement the provisions of this section.

SECTION 8. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 13th day of March, 2025.

Presiding Officer of the House
of Representatives

Passed the Senate the 1st day of May, 2025.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

THOMAS E. CUMMINS CONSULTING ACTUARY, INC.

2512 E. 71st Street , Suite D • Tulsa, Oklahoma 74136
(918) 492-9658 • (918) 492- 9659

February 13, 2025

Representative Kelly
Room 242NS

Re: Proposed Policy Substitute for Committee Substitute for House
Bill No. 1091

Proposed Policy Substitute for Committee Substitute for House Bill
No. 1091 contains definitions for contributions, administrative
rules for repurchase of services credits, purchase of military
service and transfer of funds from other systems.

It also contains a minimum death benefit of accumulated participant
contributions less retirement benefits paid.

Proposed Policy Substitute for Committee Substitute for House Bill
No. 1091 is a non fiscal bill as defined by OPLAAA.

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