

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL NO. 972

By: Stanislawski

AS INTRODUCED

An Act relating to firefighters' pension; amending 11 O.S. 2011, Section 49-106.1, as last amended by Section 3, Chapter 281, O.S.L. 2014 (11 O.S. Supp. 2018, Section 49-106.1), which relates to the deferred option plan; requiring the distribution of certain interest.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 49-106.1, as last amended by Section 3, Chapter 281, O.S.L. 2014 (11 O.S. Supp. 2018, Section 49-106.1), is amended to read as follows:

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

1 years of creditable service and who is eligible to receive a service
2 retirement pension may elect to participate in the Oklahoma
3 Firefighters Deferred Option Plan and defer the receipts of benefits
4 in accordance with the provisions of this section.

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

9 C. The duration of participation in the Oklahoma Firefighters
10 Deferred Option Plan for active firefighters shall not exceed five
11 (5) years. Participation in the Oklahoma Firefighters Deferred
12 Option Plan must begin the first day of a month and end on the last
13 day of a month. At the conclusion of a member's participation in
14 the Oklahoma Firefighters Deferred Option Plan, the member shall
15 terminate employment with all participating municipalities as a
16 firefighter, and shall start receiving the member's accrued monthly
17 retirement benefit from the System. Such a member may be reemployed
18 by a participating municipality but only in a position not covered
19 under the System, and receive in-service distributions of such
20 member's accrued monthly 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. Beginning with the plan year ending on June 30, 2020, for
3 retired members, disabled members and surviving spouses receiving
4 monthly retirement benefits from the System, the interest earned
5 annually on the member's plan shall be determined as of June 30 of
6 such plan year and shall be distributed each year pursuant to the
7 rules promulgated by the System.

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

1 H. In lieu of participating in the Oklahoma Firefighters
2 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
3 this section, a member may elect to participate in the Oklahoma
4 Firefighters Deferred Option Plan pursuant to this subsection as
5 follows:

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

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

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

17 c. "earlier attained credited service" means the credited
18 service earned by a member as of the back drop date,
19 and

20 d. "deferred benefit balance" means all monthly
21 retirement benefits that would have been payable had
22 the member elected to cease employment on the back
23 drop date and receive a service retirement from the
24 back drop date to the termination date, all the

1 member's contributions and one-half (1/2) of the
2 employer contributions from the back drop date to the
3 termination date, with interest based on how the
4 benefit would have accumulated on a compound annual
5 basis as if the member had participated in the
6 Oklahoma Firefighters Deferred Option Plan pursuant to
7 subsections A, B, C, D, E and F of this section from
8 the back drop date to the termination date; and

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

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

6 1. For purposes of this subsection, the following definitions
7 shall apply:

8 a. "back drop election date" means the date the surviving
9 spouse or member elects to commence participation in
10 the Oklahoma Firefighters Deferred Option Plan
11 pursuant to subsection H of this section and this
12 subsection,

13 b. "interest" means the actuarial assumed interest rate
14 as certified by the actuary in the yearly evaluation
15 report of the actuary,

16 c. "monthly adjustment amount" means the difference
17 between the monthly pension prior to the back drop
18 election and the adjusted monthly pension due to the
19 back drop election,

20 d. "back drop pension adjustment amount" means the sum of
21 all the monthly adjustment amounts adjusted for
22 interest from the pension commencement date to the
23 back drop election date, and
24

1 e. "deferred benefit balance adjustment amount" means the
2 interest on the deferred benefit balance from the
3 pension commencement date to the back drop election
4 date.

5 2. If a member who has more than twenty (20) years of
6 creditable service and is eligible to receive a service, or a member
7 of the Oklahoma Firefighters Pension and Retirement System whose
8 first employment with a participating employer of the System occurs
9 on or after November 1, 2013, and such member has more than twenty-
10 two (22) years of creditable service, retirement pension dies on or
11 after June 4, 2007, and prior to terminating employment, the
12 member's surviving spouse shall be eligible to elect to receive a
13 benefit determined as if the member had elected to participate in
14 the Oklahoma Firefighters Deferred Option Plan in accordance with
15 subsection H of this section on the day immediately preceding such
16 member's death. Prior to July 1, 2010, the surviving spouse must
17 make any such election within one (1) year from the date of the
18 member's death. Effective July 1, 2010, the surviving spouse must
19 make any such election within ninety (90) days from the date of the
20 member's death. If on or after June 4, 2007, such election is made,
21 the monthly pension such surviving spouse is 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 surviving spouse

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

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

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

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

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

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

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

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