

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2487 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Avery Frix _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 2487

By: Frix

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to public retirement systems; amending 11 O.S. 2011, Sections 49-100.1, as last amended by Section 2, Chapter 388, O.S.L. 2013, 49-101, as amended by Section 3, Chapter 388, O.S.L. 2013, 49-106.1, as last amended by Section 3, Chapter 281, O.S.L. 2014, 49-108, as amended by Section 7, Chapter 388, O.S.L. 2013, 49-117.1, as last amended by Section 1, Chapter 37, O.S.L. 2016 and 49-135, as last amended by Section 1, Chapter 146, O.S.L. 2019 (11 O.S. Supp. 2020, Sections 49-100.1, 49-101, 49-106.1, 49-108, 49-117.1 and 49-135), which relate to the Oklahoma Firefighters Pension and Retirement System; modifying definition; modifying requirements to receive certain benefit; modifying requirements to participate in certain plans; modifying requirements to receive volunteer pension; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 49-100.1, as last amended by Section 2, Chapter 388, O.S.L. 2013 (11 O.S. Supp. 2020, Section 49-100.1), is amended to read as follows:

1 Section 49-100.1 As used in this article:

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

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

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

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

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

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

1 recipient (or for the recipient and related persons determined in
2 accordance with Section 414(n) (6) of the Internal Revenue Code of
3 1986, as amended) on a substantially full-time basis for a period of
4 at least one (1) year, and such services are performed under primary
5 direction or control by the recipient. Contributions or benefits
6 provided a leased employee by the leasing organization which are
7 attributable to services performed for the recipient employer shall
8 be treated as provided by the recipient employer. A leased employee
9 shall not be considered an employee of the recipient if the
10 requirements of the safe harbor provisions of Section 414(n) (5) of
11 the Internal Revenue Code of 1986, as amended, are satisfied.
12 Effective July 1, 1999, any individual who agrees with the
13 participating municipality that the individual's services are to be
14 performed as a leased employee or an independent contractor shall
15 not be a member regardless of any classification as a common law
16 employee by the Internal Revenue Service or any other governmental
17 agency, or any court of competent jurisdiction;

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

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

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

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

1 All participating municipalities shall appoint a fire chief who
2 shall supervise and administer the fire department;

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

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

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

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

17 14. "Final average salary" means the average paid gross salary
18 of the firefighter for normally scheduled hours over the highest
19 salaried thirty (30) consecutive months of the last sixty (60)
20 months of credited service. Gross salary shall not include payment
21 for accumulated sick or annual leave upon termination of employment,
22 any uniform allowances or any other compensation for reimbursement
23 of out-of-pocket expenses. Only salary on which the required
24 contributions have been made may be used in computing the final

1 average salary. Effective January 1, 1988, gross salary shall
2 include any amount of elective salary reduction under Section 125 of
3 the Internal Revenue Code of 1986, as amended. Gross salary shall
4 include any amount of elective salary reduction under Section 457 of
5 the Internal Revenue Code of 1986, as amended, and any amount of
6 nonelective salary reduction under Section 414(h) of the Internal
7 Revenue Code of 1986, as amended. Effective July 1, 1998, for
8 purposes of determining a member's compensation, any contribution by
9 the member to reduce the member's regular cash remuneration under
10 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be
11 treated as if the member did not make such an election. Only salary
12 on which required contributions have been made may be used in
13 computing final average salary.

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

1 determined ("determination period") beginning in such calendar year.
2 If a determination period consists of fewer than twelve (12) months,
3 the EGTRRA salary limit will be multiplied by a fraction, the
4 numerator of which is the number of months in the determination
5 period, and the denominator of which is twelve (12). For purposes
6 of this subsection, a "Noneligible Member" is any member who first
7 became a member during a plan year commencing on or after July 1,
8 1996.

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

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

21 Effective June 9, 2010, any payments not described above shall
22 not be considered gross salary if paid after severance from
23 employment, even if they are paid by the later of two and one-half
24 (2 1/2) months after the date of severance from employment or the

1 end of the calendar year that includes the date of severance from
2 employment, except payments to an individual who does not currently
3 perform services for the participating municipality by reason of
4 qualified military service within the meaning of Section 414(u) (5)
5 of the Internal Revenue Code of 1986, as amended, to the extent
6 these payments do not exceed the amounts the individual would have
7 received if the individual had continued to perform services for the
8 participating municipality rather than entering qualified military
9 service.

10 Effective June 9, 2010, back pay, within the meaning of Section
11 1.415(c)-2(g) (8) of the Income Tax Regulations, shall be treated as
12 gross salary for the year to which the back pay relates to the
13 extent the back pay represents wages and compensation that would
14 otherwise be included in this definition.

15 Effective for years beginning after December 31, 2008, gross
16 salary shall also include differential wage payments under Section
17 414(u) (12) of the Internal Revenue Code of 1986, as amended;

18 15. "Accrued retirement benefit" means two and one-half percent
19 (2 1/2%) of the firefighter's final average salary multiplied by the
20 member's years of credited service not to exceed thirty (30) years;

21 16. "Beneficiary" means a member's surviving spouse or any
22 surviving children, including biological and adopted children, at
23 the time of the member's death. The surviving spouse must have been
24 married to the firefighter for the thirty (30) continuous months

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

18 17. "Accumulated contributions" means the sum of all
19 contributions made by a member to the System and includes both
20 contributions deducted from the compensation of a member and
21 contributions of a member picked up and paid by the participating
22 municipality of the member. Accumulated contributions shall not
23 include any interest on the contributions of the member, interest on
24

1 any amount contributed by the municipality or state and any amount
2 contributed by the municipality or state; and

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

6 SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-101, as
7 amended by Section 3, Chapter 388, O.S.L. 2013 (11 O.S. Supp. 2020,
8 Section 49-101), is amended to read as follows:

9 Section 49-101. A. All retired volunteer fire fighters who
10 qualify for retirement shall be entitled to a monthly pension. The
11 monthly pension of a volunteer fire fighter shall be in the amount
12 retired volunteer fire fighters are receiving at the time the
13 volunteer fire fighter begins to receive a pension for each year of
14 credited service not to exceed thirty (30) years. In determining
15 the number of years of credited service, a fractional year of six
16 (6) months or more shall be counted as one (1) full year and a
17 fractional year of less than six (6) months shall not be counted in
18 such determination. Retired volunteer fire fighters of a
19 municipality shall receive a pension of not less than that which
20 retired volunteer fire fighters of such municipality were receiving
21 on June 30, 1985.

22 B. ~~If a~~ A volunteer fire fighter ~~whose first service with a~~
23 ~~participating employer of the System occurs prior to November 1,~~
24 ~~2013,~~ who terminates service after completing ten (10) years of

1 credited service, ~~the volunteer fire fighter shall~~ but less than
2 twenty (20) years of credited service, shall be entitled to receive
3 a vested benefit. ~~The volunteer fire fighter whose first service~~
4 ~~with a participating employer of the System occurs prior to November~~
5 ~~1, 2013, shall be entitled to a monthly pension commencing on the~~
6 date the fire fighter reaches fifty (50) years of age or the date
7 the fire fighter would have had twenty (20) years of credited
8 service had the fire fighter's service continued uninterrupted,
9 whichever is later. ~~If a volunteer fire fighter whose first service~~
10 ~~with a participating employer of the System occurs on or after~~
11 ~~November 1, 2013, terminates service after completing eleven (11)~~
12 ~~years of credited service, the volunteer fire fighter shall receive~~
13 a vested benefit. ~~The volunteer fire fighter whose first service~~
14 ~~with a participating employer of the System occurs on or after~~
15 ~~November 1, 2013, shall be entitled to a monthly pension commencing~~
16 ~~on the date the fire fighter reaches fifty (50) years of age or the~~
17 ~~date the fire fighter would have had twenty-two (22) years of~~
18 ~~credited service had the fire fighter's service continued~~
19 ~~uninterrupted, whichever is later.~~ The monthly amount of such
20 retirement benefit shall be the amount being paid to volunteer fire
21 fighters at the time the member vests multiplied by the number of
22 years of credited service. Credited service must be established at
23 the time of the volunteer fire fighter's termination. If a
24 volunteer fire fighter who ~~terminates~~ terminated employment and

1 ~~receives~~ elected, or was eligible to elect, a vested benefit dies
2 prior to being eligible to receive benefits, the volunteer fire
3 fighter's beneficiary, as defined in paragraph 16 of Section 49-
4 100.1 of this title, shall be entitled to the volunteer fire
5 fighter's normal monthly retirement benefit on the date the deceased
6 volunteer fire fighter would have been eligible to receive the
7 benefit.

8 SECTION 3. AMENDATORY 11 O.S. 2011, Section 49-106.1, as
9 last amended by Section 3, Chapter 281, O.S.L. 2014 (11 O.S. Supp.
10 2020, Section 49-106.1), is amended to read as follows:

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

24

1 B. For purposes of this section, creditable service shall
2 include service credit reciprocally recognized pursuant to Sections
3 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2
4 of this title but for eligibility purposes only.

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

17 D. When a member begins participation in the Oklahoma
18 Firefighters Deferred Option Plan, the contribution of the member
19 shall cease. The employer contributions shall continue to be paid
20 in accordance with subsection B of Section 49-122 of this title.
21 Employer contributions for members who elect the Oklahoma
22 Firefighters Deferred Option Plan shall be credited equally to the
23 Oklahoma Firefighters Pension and Retirement System and to the
24 member's Oklahoma Firefighters Deferred Option Plan account. The

1 monthly retirement benefits that would have been payable had the
2 member elected to cease employment and receive a service retirement
3 shall be paid into the member's Oklahoma Firefighters Deferred
4 Option Plan account.

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

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

13 3. Effective November 1, 2013, the Oklahoma Firefighters
14 Deferred Option Plan account for a member whose first service with a
15 participating municipality of the System occurs on or after November
16 1, 2013, and who participates for the first time in the Oklahoma
17 Firefighters Deferred Option Plan on or after November 1, 2013, and
18 has completed active participation in the Oklahoma Firefighters
19 Deferred Option Plan, shall earn interest at a rate equal to the
20 actual rate of return of the investment portfolio of the System,
21 less one (1) percentage point to offset administrative costs of the
22 System as determined by the System.

23 F. A member in the plan shall receive, at the option of the
24 member, a lump-sum payment from the account equal to the payments to

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

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

21 2. The actual retirement date of the member.

22 G. If a member dies while maintaining an account balance in the
23 plan the System shall pay to the designated recipient or recipients
24 of the member, or if there is no designated recipient or if the

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

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

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

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

1 b. "termination date" means the date the member elects to
2 participate in the Oklahoma Firefighters Deferred
3 Option Plan pursuant to this subsection, and the date
4 the member terminates employment with all
5 participating municipalities as an active firefighter,

6 c. "earlier attained credited service" means the credited
7 service earned by a member as of the back drop date,
8 and

9 d. "deferred benefit balance" means all monthly
10 retirement benefits that would have been payable had
11 the member elected to cease employment on the back
12 drop date and receive a service retirement from the
13 back drop date to the termination date, all the
14 member's contributions and one-half (1/2) of the
15 employer contributions from the back drop date to the
16 termination date, with interest based on how the
17 benefit would have accumulated on a compound annual
18 basis as if the member had participated in the
19 Oklahoma Firefighters Deferred Option Plan pursuant to
20 subsections A, B, C, D, E and F of this section from
21 the back drop date to the termination date; and

22 2. At the termination date, the monthly pension benefit shall
23 be determined based on earlier attained credited service and on the
24 final average salary as of the back drop date. The member's

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

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

18 1. For purposes of this subsection, the following definitions
19 shall apply:

20 a. "back drop election date" means the date the surviving
21 spouse or member elects to commence participation in
22 the Oklahoma Firefighters Deferred Option Plan
23 pursuant to subsection H of this section and this
24 subsection,

- 1 b. "interest" means the actuarial assumed interest rate
2 as certified by the actuary in the yearly evaluation
3 report of the actuary,
- 4 c. "monthly adjustment amount" means the difference
5 between the monthly pension prior to the back drop
6 election and the adjusted monthly pension due to the
7 back drop election,
- 8 d. "back drop pension adjustment amount" means the sum of
9 all the monthly adjustment amounts adjusted for
10 interest from the pension commencement date to the
11 back drop election date, and
- 12 e. "deferred benefit balance adjustment amount" means the
13 interest on the deferred benefit balance from the
14 pension commencement date to the back drop election
15 date.

16 2. If a member who has more than twenty (20) years of
17 creditable service and is eligible to receive a service, ~~or a member~~
18 ~~of the Oklahoma Firefighters Pension and Retirement System whose~~
19 ~~first employment with a participating employer of the System occurs~~
20 ~~on or after November 1, 2013, and such member has more than twenty~~
21 ~~two (22) years of creditable service,~~ retirement pension dies on or
22 after June 4, 2007, and prior to terminating employment, the
23 member's surviving spouse shall be eligible to elect to receive a
24 benefit determined as if the member had elected to participate in

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

20 3. If a member has more than twenty (20) years of creditable
21 service, ~~or a member of the Oklahoma Firefighters Pension and~~
22 ~~Retirement System whose first employment with a participating~~
23 ~~employer of the System occurs on or after November 1, 2013, and such~~
24 ~~member has more than twenty two (22) years of creditable service and~~

1 ~~is eligible to receive a service retirement pension,~~ and is eligible
2 for a retirement for disability monthly pension pursuant to Section
3 49-109 of this title on or after June 4, 2007, such member shall be
4 eligible to elect to receive a benefit determined as if the member
5 had elected to participate in the Oklahoma Firefighters Deferred
6 Option Plan, in accordance with subsection H of this section, on the
7 day immediately preceding the date of the member's disability
8 retirement, provided such election is made within two (2) years from
9 the date of the member's disability retirement. The disability
10 monthly pension such member is receiving, or entitled to receive,
11 shall be adjusted in accordance with the provisions of subsection H
12 of this section to account for the member's participation in the
13 Oklahoma Firefighters Deferred Option Plan. The deferred benefit
14 balance such member is entitled to receive shall be reduced by the
15 back drop pension adjustment amount and increased by the deferred
16 benefit balance adjustment amount. The member may only make a back
17 drop election if the deferred benefit balance after the adjustment
18 described in this paragraph is greater than Zero Dollars (\$0.00).
19 The member may only make this election if the member has not
20 previously elected to participate in the Oklahoma Firefighters
21 Deferred Option Plan.

22 4. If a member has more than twenty (20) years of creditable
23 service, ~~or a member of the Oklahoma Firefighters Pension and~~
24 ~~Retirement System whose first employment with a participating~~

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

1 the deferred benefit balance after the adjustment described in this
2 paragraph is greater than Zero Dollars (\$0.00). The member may only
3 make this election if the member has not previously elected to
4 participate in the Oklahoma Firefighters Deferred Option Plan.

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

19 SECTION 4. AMENDATORY 11 O.S. 2011, Section 49-108, as
20 amended by Section 7, Chapter 388, O.S.L. 2013 (11 O.S. Supp. 2020,
21 Section 49-108), is amended to read as follows:

22 Section 49-108. A. Any volunteer fire fighter who is appointed
23 as a paid fire fighter ~~whose first service with a participating~~
24 ~~employer of the System occurs prior to November 1, 2013,~~ and serves

1 less than ten (10) years as a paid fire fighter, shall be entitled
2 to receive one-twentieth (1/20) of a volunteer pension earned over
3 twenty (20) years for each full year served as a volunteer fire
4 fighter and one-twentieth of one-half (1/20 of 1/2) of the average
5 salary received for each full year the fire fighter served as a paid
6 fire fighter. ~~Any volunteer fire fighter who is appointed as a paid
7 fire fighter whose first service with a participating employer of
8 the System occurs on or after November 1, 2013, and serves less than
9 eleven (11) years as a paid fire fighter, shall be entitled to
10 receive one-twenty-second (1/22) of a volunteer pension earned over
11 twenty-two (22) years for each full year served as a volunteer fire
12 fighter and one-twenty-second of fifty-five percent (1/22 of 55%) of
13 the average salary received for each full year the fire fighter
14 served as a paid fire fighter.~~

15 B. Any volunteer fire fighter who is appointed as a paid fire
16 fighter after May 15, 1992, ~~whose first service with a participating
17 employer of the System occurs prior to November 1, 2013,~~ and serves
18 ten (10) or more years as a paid fire fighter, shall be entitled to
19 credit no more than five (5) years of volunteer time to complete a
20 twenty-year paid service pension with remaining volunteer time
21 computed at one-twentieth (1/20) of a volunteer pension earned over
22 twenty (20) years for each additional volunteer year. ~~Any volunteer
23 fire fighter who is appointed as a paid fire fighter before May 15,
24 1992, and serves ten (10) or more years as a paid fire fighter,~~

~~shall be entitled to credit all of the fire fighter's volunteer time to complete a twenty year paid service pension. Any volunteer fire fighter who is appointed as a paid fire fighter whose first service with a participating employer of the System occurs on or after November 1, 2013, and serves eleven (11) or more years as a paid fire fighter, shall be entitled to credit no more than five (5) years of volunteer time to complete a twenty-two year paid service pension with remaining volunteer time computed at one twenty second (1/22) of a volunteer pension earned over twenty-two (22) years for each additional volunteer year.~~

C. For purposes of determining benefits pursuant to this section, total credited service for paid and volunteer service shall not exceed thirty (30) years; provided, the most recent years of service shall be used in determining total credited service for paid and volunteer service.

D. Nothing contained in this section shall be construed to create an eligibility for pension which is not otherwise provided by law.

SECTION 5. AMENDATORY 11 O.S. 2011, Section 49-117.1, as last amended by Section 1, Chapter 37, O.S.L. 2016 (11 O.S. Supp. 2020, 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

1 Fund an amount equal to the accumulated contributions the member has
2 made to the Fund, but excluding any interest or any amount
3 contributed by the municipality or state.

4 B. ~~If a member, whose first employment with a participating~~
5 ~~employer of the System occurs prior to November 1, 2013,~~ has
6 completed ten (10) years of credited service at the date of
7 termination, the member may elect a vested benefit in lieu of
8 receiving the member's accumulated contributions.

9 C. ~~If a member whose first employment with a participating~~
10 ~~employer of the System occurs on or after November 1, 2013,~~ has
11 ~~completed eleven (11) years of credited service at the date of~~
12 ~~termination, the member may elect a vested benefit in lieu of~~
13 ~~receiving the member's accumulated contributions.~~

14 ~~D.~~ If the member who has completed ten (10) or more years of
15 credited service as prescribed by subsection B of this section
16 elects the vested benefit, the member shall be entitled to a monthly
17 retirement annuity commencing on the date the member reaches fifty
18 (50) years of age or the date the member would have had twenty (20)
19 years of credited service had the member's employment continued
20 uninterrupted, whichever is later. The annual amount of such
21 retirement annuity shall be equal to two and one-half percent (2
22 1/2%) of the annualized final average salary multiplied by the
23 number of years of credited service not to exceed thirty (30) years.
24 The death benefits provided for in Section 49-113.2 of this title

1 shall not apply to any member retiring under the provisions of this
2 section.

3 ~~E. If the member who has completed eleven (11) or more years of~~
4 ~~credited service as prescribed by subsection C of this section~~
5 ~~elects the vested benefit, the member shall be entitled to a monthly~~
6 ~~retirement annuity commencing on the date the member reaches fifty~~
7 ~~(50) years of age or the date the member would have had twenty-two~~
8 ~~(22) years of credited service had the member's employment continued~~
9 ~~uninterrupted, whichever is later. The annual amount of such~~
10 ~~retirement annuity shall be equal to two and one-half percent (2~~
11 ~~1/2%) of the annualized final average salary multiplied by the~~
12 ~~number of years of credited service not to exceed thirty (30) years.~~
13 ~~The death benefits provided for in Section 49-113.2 of this title~~
14 ~~shall not apply to any member retiring under the provisions of this~~
15 ~~section.~~

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

23 ~~G. E.~~ If a member terminates employment and withdraws the
24 member's accumulated contributions and then subsequently rejoins the

1 System, he may pay to the System the sum of the accumulated
2 contributions he has withdrawn plus five percent (5%) annual
3 interest from the date of withdrawal and shall receive the same
4 benefits as if he had never withdrawn his contributions; however,
5 effective January 1, 1991, the rate of interest provided herein
6 shall be ten percent (10%) per annum.

7 H. F. Lump-sum payments for repayment of any amounts received
8 because of a member's prior termination with interest may be repaid
9 by a trustee-to-trustee transfer of non-Roth funds from a Code
10 Section 403(b) annuity, a governmental Code Section 457 plan, and/or
11 a Code Section 401(a) qualified plan.

12 ~~F. G.~~ A firefighter shall not be permitted to withdraw from the
13 System while employed as a firefighter in a participating
14 municipality.

15 SECTION 6. AMENDATORY 11 O.S. 2011, Section 49-135, as
16 last amended by Section 1, Chapter 146, O.S.L. 2019 (11 O.S. Supp.
17 2020, Section 49-135), is amended to read as follows:

18 Section 49-135. A. No person shall be employed in a fire
19 department who has reached the age of forty-five (45) years, unless
20 it appears he or she shall become eligible for retirement at the age
21 of sixty-five (65) years, ~~or at the age of sixty-seven (67) years~~
22 ~~for a firefighter whose first service with a participating employer~~
23 ~~of the System occurs on or after November 1, 2013,~~ or unless he or
24 she be retired from a municipal fire department in the State of

1 Oklahoma. This section shall not apply to professional engineers,
2 or to persons employed as technical specialists on a temporary
3 basis. The State Board shall be authorized to establish the maximum
4 age, within the limits herein prescribed, over which an applicant
5 may not be considered for initial employment, but no person shall be
6 prohibited from making application for reemployment and having such
7 reemployment application considered merely because of his or her
8 age, provided that such person be under the age of forty-five (45)
9 years, and provided further, that such reemployment shall be with
10 the consent of the fire chief of such municipality.

11 B. On or after the effective date of this act, a person who
12 performs volunteer services as a firefighter, who has attained the
13 age of forty-five (45) or more years as of the first date such
14 volunteer services are performed, for a municipality or a county
15 shall not be eligible to be a member of the Oklahoma Firefighters
16 Pension and Retirement System for any purpose, shall not be eligible
17 for any benefit payable by the System and shall not receive any form
18 of service credit from the System resulting from such volunteer
19 services. The person responsible for decisions regarding the
20 performance of firefighting services having jurisdiction, which in
21 the absence of any other requirement to the contrary shall be the
22 Fire Chief, shall make the final determination on applicants for
23 positions that would involve the performance of volunteer
24 firefighting services if the applicant is over the age of forty-five

1 (45) years based on local rules, regulations, ordinances, guidelines
2 and standard operating procedures.

3 C. Notwithstanding the requirements of subsections C and H of
4 Section 49-106.1 of this title to terminate employment with all
5 participating municipalities as a firefighter, a person receiving an
6 accrued retirement benefit pursuant to Section 49-106 of this title
7 may perform volunteer firefighting services for a volunteer
8 department pursuant to subsection B of this section and continue to
9 receive the member's accrued retirement benefit; provided, that the
10 pension shall cease during any period of time the member may
11 thereafter serve for compensation in any municipal fire department
12 in the state; provided further, that no person shall perform any
13 services as a firefighter if such person is receiving disability
14 benefits pursuant to Section 49-109 of this title.

15 SECTION 7. This act shall become effective November 1, 2021.

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