

SENATE FLOOR VERSION

April 13, 2022

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ENGROSSED HOUSE
BILL NO. 2487

By: Frix of the House

and

Taylor and Stephens of the
Senate

[public retirement systems - modifying requirements
to participate in certain plans - effective dates]

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

SECTION 1. AMENDATORY 62 O.S. 2021, Section 3103, is
amended to read as follows:

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

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

2. "RB number" means that number preceded by the letters "RB"
assigned to a retirement bill by the respective staffs of the
Oklahoma State Senate and the Oklahoma House of Representatives when

1 the respective staff office prepares a retirement bill for a member
2 of the Legislature;

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

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

12 5. "Nonfiscal retirement bill" means a retirement bill:

13 a. which does not affect the cost or funding factors of a
14 retirement system,

15 b. which affects such factors only in a manner which does
16 not:

17 (1) grant a benefit increase under the retirement
18 system affected by the bill,

19 (2) create an actuarial accrued liability for or
20 increase the actuarial accrued liability of the
21 retirement system affected by the bill, or

22 (3) increase the normal cost of the retirement system
23 affected by the bill,

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- 1 c. which authorizes the purchase by an active member of
2 the retirement system, at the actuarial cost for the
3 purchase as computed pursuant to the statute in effect
4 on the effective date of the measure allowing such
5 purchase, of years of service for purposes of reaching
6 a normal retirement date in the applicable retirement
7 system, but which cannot be used in order to compute
8 the number of years of service for purposes of
9 computing the retirement benefit for the member,
- 10 d. which provides for the computation of a service-
11 connected disability retirement benefit for members of
12 the Oklahoma Law Enforcement Retirement System
13 pursuant to Section 2-305 of Title 47 of the Oklahoma
14 Statutes if the members were unable to complete twenty
15 (20) years of service as a result of the disability,
- 16 e. which requires membership in the defined benefit plan
17 authorized by Section 901 et seq. of Title 74 of the
18 Oklahoma Statutes for persons whose first elected or
19 appointed service occurs on or after November 1, 2018,
20 if such persons had any prior service in the Oklahoma
21 Public Employees Retirement System prior to November
22 1, 2015,
- 23 f. which provides for a one-time increase in retirement
24 benefits if the increase in retirement benefits is not

1 a permanent increase in the gross annual retirement
2 benefit payable to a member or beneficiary, occurs
3 only once pursuant to a single statutory authorization
4 and does not exceed:

5 (1) the lesser of two percent (2%) of the gross
6 annual retirement benefit of the member or One
7 Thousand Dollars (\$1,000.00) and requires that
8 the benefit may only be provided if the funded
9 ratio of the affected retirement system would not
10 be less than sixty percent (60%) but not greater
11 than eighty percent (80%) after the benefit
12 increase is paid,

13 (2) the lesser of two percent (2%) of the gross
14 annual retirement benefit of the member or One
15 Thousand Two Hundred Dollars (\$1,200.00) and
16 requires that the benefit may only be provided if
17 the funded ratio of the affected retirement
18 system would be greater than eighty percent (80%)
19 but not greater than one hundred percent (100%)
20 after the benefit increase is paid,

21 (3) the lesser of two percent (2%) of the gross
22 annual retirement benefit of the member or One
23 Thousand Four Hundred Dollars (\$1,400.00) and
24 requires that the benefit may only be provided if

1 the funded ratio of the affected retirement
 2 system would be greater than one hundred percent
 3 (100%) after the benefit increase is paid, or
 4 (4) the greater of two percent (2%) of the gross
 5 annual retirement benefit of the volunteer
 6 firefighter or One Hundred Dollars (\$100.00) for
 7 persons who retired from the Oklahoma
 8 Firefighters Pension and Retirement System as
 9 volunteer firefighters and who did not retire
 10 from the Oklahoma Firefighters Pension and
 11 Retirement System as a paid firefighter.

12 As used in this subparagraph, "funded ratio" means the
 13 figure derived by dividing the actuarial value of
 14 assets of the applicable retirement system by the
 15 actuarial accrued liability of the applicable
 16 retirement system,

17 g. which modifies the disability pension standard for
 18 police officers who are members of the Oklahoma Police
 19 Pension and Retirement System as provided by Section ~~3~~
 20 50-115 of ~~this act~~ Title 11 of the Oklahoma Statutes,

21 ~~or~~

22 h. which provides a cost-of-living benefit increase
 23 pursuant to the provisions of ~~Sections 2 through 7 of~~
 24 this act:

1 (1) Section 49-143.7 of Title 11 of the Oklahoma
2 Statutes,

3 (2) Section 50-136.9 of Title 11 of the Oklahoma
4 Statutes,

5 (3) Section 1104K of Title 20 of the Oklahoma
6 Statutes,

7 (4) Section 2-305.12 of Title 47 of the Oklahoma
8 Statutes,

9 (5) Section 17-116.22 of Title 70 of the Oklahoma
10 Statutes,

11 (6) Section 930.11 of Title 74 of the Oklahoma
12 Statutes, or

13 i. which restores benefits pursuant to Sections 2 through
14 8 of this act.

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

22 6. "Reduction-in-cost amendment" means an amendment to a
23 retirement bill having a fiscal impact which reduces the cost of the
24

1 bill as such cost is determined by the actuarial investigation for
2 the bill prepared pursuant to Section 3109 of this title;

3 7. "Retirement bill" means any bill or joint resolution
4 introduced or any bill or joint resolution amended by a member of
5 the Oklahoma Legislature which creates or amends any law directly
6 affecting a retirement system. A retirement bill shall not mean a
7 bill or resolution that impacts the revenue of any state tax in
8 which a portion of the revenue generated from such tax is earmarked
9 for the benefit of a retirement system;

10 8. "Retirement bill having a fiscal impact" means any
11 retirement bill creating or establishing a retirement system and any
12 other retirement bill other than a nonfiscal retirement bill; and

13 9. "Retirement system" means the Teachers' Retirement System of
14 Oklahoma, the Oklahoma Public Employees Retirement System, the
15 Uniform Retirement System for Justices and Judges, the Oklahoma
16 Firefighters Pension and Retirement System, the Oklahoma Police
17 Pension and Retirement System, the Oklahoma Law Enforcement
18 Retirement System, or a retirement system established after January
19 1, 2006.

20 SECTION 2. AMENDATORY 11 O.S. 2021, Section 49-100.1, is
21 amended to read as follows:

22 Section 49-100.1 As used in this article:
23
24

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

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

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

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

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

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

1 accordance with Section 414(n) (6) of the Internal Revenue Code of
2 1986, as amended) on a substantially full-time basis for a period of
3 at least one (1) year, and such services are performed under primary
4 direction or control by the recipient. Contributions or benefits
5 provided a leased employee by the leasing organization which are
6 attributable to services performed for the recipient employer shall
7 be treated as provided by the recipient employer. A leased employee
8 shall not be considered an employee of the recipient if the
9 requirements of the safe harbor provisions of Section 414(n) (5) of
10 the Internal Revenue Code of 1986, as amended, are satisfied.

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

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

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

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

20 9. "Participating municipality" means a municipality, county
21 fire department organized pursuant to subsection D of Section 351 of
22 Title 19 of the Oklahoma Statutes, or fire protection district which
23 is making contributions to the System on behalf of its firefighters.
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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 3. AMENDATORY 11 O.S. 2021, Section 49-101, is
 7 amended to read as follows:

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

21 B. ~~If a A volunteer firefighter whose first service with a~~
 22 ~~participating employer of the System occurs prior to November 1,~~
 23 ~~2013,~~ who terminates service after completing ten (10) years of
 24 credited service, ~~the volunteer firefighter shall~~ but less than

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

1 receive benefits, the volunteer firefighter's beneficiary, as
2 defined in paragraph 16 of Section 49-100.1 of this title, shall be
3 entitled to the volunteer firefighter's normal monthly retirement
4 benefit on the date the deceased volunteer firefighter would have
5 been eligible to receive the benefit.

6 SECTION 4. AMENDATORY 11 O.S. 2021, Section 49-101.2, is
7 amended to read as follows:

8 Section 49-101.2 Any member serving as an active volunteer
9 firefighter who receives annual compensation from the fire
10 department the firefighter is enrolled in as a member of the System
11 for services related to firefighting, other than reimbursement of
12 expenses in excess of ~~two (2)~~ five and one-half (5 1/2) times the
13 annual pension benefit paid by the System to a retired volunteer
14 firefighter with twenty (20) years credited service, shall be
15 considered a paid firefighter and must meet the physical and agility
16 requirements pursuant to Section 49-116 of this title to continue as
17 an active member of the System. Credited service earned as a paid
18 firefighter pursuant to this section shall not be considered actual
19 experience as a paid firefighter for purposes of meeting the
20 qualifications of a paid fire chief as provided in Section 29-102 of
21 this title. No fire department of a participating municipality
22 shall employ a volunteer firefighter from another fire department to
23 perform services relating to firefighting for any compensation of
24 any kind.

1 SECTION 5. AMENDATORY 11 O.S. 2021, Section 49-106.1, is
2 amended to read as follows:

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

16 B. For purposes of this section, creditable service shall
17 include service credit reciprocally recognized pursuant to Sections
18 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2
19 of this title but for eligibility purposes only.

20 C. The duration of participation in the Oklahoma Firefighters
21 Deferred Option Plan for active firefighters shall not exceed five
22 (5) years. Participation in the Oklahoma Firefighters Deferred
23 Option Plan must begin the first day of a month and end on the last
24 day of a month. At the conclusion of a member's participation in

1 the Oklahoma Firefighters Deferred Option Plan, the member shall
2 terminate employment with all participating municipalities as a
3 firefighter, and shall start receiving the member's accrued monthly
4 retirement benefit from the System. Such a member may be reemployed
5 by a participating municipality but only in a position not covered
6 under the System, and receive in-service distributions of such
7 member's accrued monthly retirement benefit from the System.

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

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

22 2. A member who participates in this plan shall earn interest
23 at a rate of two percentage points below the rate of return of the
24 investment portfolio of the System, but no less than the actuarial

1 assumed interest rate as certified by the actuary in the yearly
2 evaluation report of the actuary. The interest shall be credited to
3 the individual account balance of the member on an annual basis.

4 3. Effective November 1, 2013, the Oklahoma Firefighters
5 Deferred Option Plan account for a member whose first service with a
6 participating municipality of the System occurs on or after November
7 1, 2013, and who participates for the first time in the Oklahoma
8 Firefighters Deferred Option Plan on or after November 1, 2013, and
9 has completed active participation in the Oklahoma Firefighters
10 Deferred Option Plan, shall earn interest at a rate equal to the
11 actual rate of return of the investment portfolio of the System,
12 less one (1) percentage point to offset administrative costs of the
13 System as determined by the System.

14 F. A member in the plan shall receive, at the option of the
15 member, a lump-sum payment from the account equal to the payments to
16 the account or an annuity based upon the account of the member or
17 may elect any other method of payment if approved by the Board of
18 Trustees. If a member becomes so physically or mentally disabled
19 while in, or in consequence of, the performance of his or her duty
20 as to prevent the effective performance of his or her duties that
21 the State Board approves an in-line-of-duty disability pension, the
22 payment from the account shall be an in-line-of-duty disability
23 payment. Notwithstanding any other provision contained herein to
24 the contrary, commencement of distributions under the Oklahoma

1 Firefighters Deferred Option Plan shall be no later than the time as
2 set forth in subsection B of Section 49-106 of this title and a
3 member whose first service with a participating municipality of the
4 System occurs on or after November 1, 2013, and who participates for
5 the first time in the Oklahoma Firefighters Deferred Option Plan on
6 or after November 1, 2013, must receive a distribution of the entire
7 remaining balance in the member's Oklahoma Firefighters Deferred
8 Option Plan account no later than April 1 of the calendar year
9 following the later of:

10 1. The calendar year in which the member reaches seventy and
11 one-half (70 1/2) years of age for a member who attains age seventy
12 and one-half (70 1/2) before January 1, 2020, or effective for
13 distributions required to be made after December 31, 2019, the
14 calendar year in which the member reaches seventy-two (72) years of
15 age for an individual who attains age seventy and one-half (70 1/2)
16 after December 31, 2019; or

17 2. The actual retirement date of the member.

18 G. If a member dies while maintaining an account balance in the
19 plan the System shall pay to the designated recipient or recipients
20 of the member, or if there is no designated recipient or if the
21 designated recipient predeceases the member, to the spouse of the
22 member, or if there is no spouse or if the spouse predeceases the
23 member, to the estate of the member a lump-sum payment equal to the
24 account balance of the member. If such member was receiving, or

1 eligible to receive, an in-line-of-duty disability pension at the
2 time of his or her death, payment of the account balance shall be an
3 in-line-of-duty disability payment. If a designated recipient is
4 the surviving spouse of the member, the surviving spouse shall
5 receive his or her portion of the account balance of the member
6 pursuant to subsection F of this section. The surviving spouse,
7 whether or not he or she is a designated recipient of the member,
8 may elect to receive his or her portion of the account balance of
9 the member in the same manner as was applicable to the member.

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

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

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

21 b. "termination date" means the date the member elects to
22 participate in the Oklahoma Firefighters Deferred
23 Option Plan pursuant to this subsection, and the date
24

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

19 2. At the termination date, the monthly pension benefit shall
20 be determined based on earlier attained credited service and on the
21 final average salary as of the back drop date. The member's
22 individual deferred option account shall be credited with an amount
23 equal to the deferred benefit balance, the member shall terminate
24 employment with all participating municipalities as a firefighter,

1 and shall start receiving the member's accrued monthly retirement
2 benefit from the System. Such a member may be reemployed by a
3 participating municipality but only in a position not covered under
4 the System, and receive in-service distributions of such member's
5 accrued monthly retirement benefit from the System. The provisions
6 of subsections B, C, E, F and G of this section shall apply to this
7 subsection. A member shall not participate in the Oklahoma
8 Firefighters Deferred Option Plan pursuant to this subsection if the
9 member has elected to participate in the Oklahoma Firefighters
10 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
11 this section.

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

15 1. For purposes of this subsection, the following definitions
16 shall apply:

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

22 b. "interest" means the actuarial assumed interest rate
23 as certified by the actuary in the yearly evaluation
24 report of the actuary,

1 c. "monthly adjustment amount" means the difference
2 between the monthly pension prior to the back drop
3 election and the adjusted monthly pension due to the
4 back drop election,

5 d. "back drop pension adjustment amount" means the sum of
6 all the monthly adjustment amounts adjusted for
7 interest from the pension commencement date to the
8 back drop election date, and

9 e. "deferred benefit balance adjustment amount" means the
10 interest on the deferred benefit balance from the
11 pension commencement date to the back drop election
12 date.

13 2. If a member who has more than twenty (20) years of
14 creditable service and is eligible to receive a service, ~~or a member~~
15 ~~of the Oklahoma Firefighters Pension and Retirement System whose~~
16 ~~first employment with a participating employer of the System occurs~~
17 ~~on or after November 1, 2013, and such member has more than twenty-~~
18 ~~two (22) years of creditable service,~~ retirement pension dies on or
19 after June 4, 2007, and prior to terminating employment, the
20 member's surviving spouse shall be eligible to elect to receive a
21 benefit determined as if the member had elected to participate in
22 the Oklahoma Firefighters Deferred Option Plan in accordance with
23 subsection H of this section on the day immediately preceding such
24 member's death. Prior to July 1, 2010, the surviving spouse must

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

17 3. If a member has more than twenty (20) years of creditable
18 ~~service, or a member of the Oklahoma Firefighters Pension and~~
19 ~~Retirement System whose first employment with a participating~~
20 ~~employer of the System occurs on or after November 1, 2013, and such~~
21 ~~member has more than twenty-two (22) years of creditable service and~~
22 ~~is eligible to receive a service retirement pension, and is eligible~~
23 for a retirement for disability monthly pension pursuant to Section
24 49-109 of this title on or after June 4, 2007, such member shall be

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

19 4. If a member has more than twenty (20) years of creditable
20 ~~service, or a member of the Oklahoma Firefighters Pension and~~
21 ~~Retirement System whose first employment with a participating~~
22 ~~employer of the System occurs on or after November 1, 2013, and such~~
23 ~~member has more than twenty-two (22) years of creditable service and~~
24 ~~is eligible to receive a service retirement pension, and filed a~~

1 grievance for wrongful termination occurring on or after June 4,
2 2007, or is not a member of a collective bargaining organization as
3 a firefighter, is involuntarily terminated and is seeking to have
4 his or her position as a firefighter reinstated through a legal
5 process, but is not reinstated as an active member, such member
6 shall be eligible to elect to receive a benefit determined as if the
7 member had elected to participate in the Oklahoma Firefighters
8 Deferred Option Plan in accordance with subsection H of this section
9 on the day immediately preceding the date of the member's
10 termination. Such election must be made within two (2) years from
11 the date of the member's termination as an active member and, if the
12 member's case pertaining to the member's termination is on appeal to
13 a court of competent jurisdiction, within such period set by the
14 State Board in its sole discretion. The monthly pension such member
15 is receiving, or entitled to receive, shall be adjusted in
16 accordance with the provisions of subsection H of this section to
17 account for the member's participation in the Oklahoma Firefighters
18 Deferred Option Plan. The deferred benefit balance such member is
19 entitled to receive shall be reduced by the back drop pension
20 adjustment amount and increased by the deferred benefit balance
21 adjustment amount. The member may only make a back drop election if
22 the deferred benefit balance after the adjustment described in this
23 paragraph is greater than Zero Dollars (\$0.00). The member may only

24

1 make this election if the member has not previously elected to
2 participate in the Oklahoma Firefighters Deferred Option Plan.

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

17 SECTION 6. AMENDATORY 11 O.S. 2021, Section 49-108, is
18 amended to read as follows:

19 Section 49-108. A. Any volunteer firefighter who is appointed
20 as a paid firefighter ~~whose first service with a participating~~
21 ~~employer of the System occurs prior to November 1, 2013,~~ and serves
22 less than ten (10) years as a paid firefighter, shall be entitled to
23 receive one-twentieth (1/20) of a volunteer pension earned over
24 twenty (20) years for each full year served as a volunteer

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

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

~~1 firefighter whose first service with a participating employer of the
2 System occurs on or after November 1, 2013, and serves eleven (11)
3 or more years as a paid firefighter, shall be entitled to credit no
4 more than five (5) years of volunteer time to complete a twenty-two
5 year paid service pension with remaining volunteer time computed at
6 one-twenty-second (1/22) of a volunteer pension earned over twenty
7 two (22) years for each additional volunteer year.~~

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

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

16 SECTION 7. AMENDATORY 11 O.S. 2021, Section 49-117.1, is
17 amended to read as follows:

18 Section 49-117.1 A. A member who terminates service before
19 normal retirement date, other than by death or disability shall,
20 upon application filed with the State Board, be refunded from the
21 Fund an amount equal to the accumulated contributions the member has
22 made to the Fund, but excluding any interest or any amount
23 contributed by the municipality or state.

24

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

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

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

24

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

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

21 ~~G. E.~~ If a member terminates employment and withdraws the
22 member's accumulated contributions and then subsequently rejoins the
23 System, he may pay to the System the sum of the accumulated
24 contributions he has withdrawn plus five percent (5%) annual

1 interest from the date of withdrawal and shall receive the same
 2 benefits as if he had never withdrawn his contributions; however,
 3 effective January 1, 1991, the rate of interest provided herein
 4 shall be ten percent (10%) per annum.

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

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

13 SECTION 8. AMENDATORY 11 O.S. 2021, Section 49-135, is
 14 amended to read as follows:

15 Section 49-135. A. No person shall be employed in a fire
 16 department who has reached the age of forty-five (45) years, unless
 17 it appears he or she shall become eligible for retirement at the age
 18 of sixty-five (65) years, ~~or at the age of sixty-seven (67) years~~
 19 ~~for a firefighter whose first service with a participating employer~~
 20 ~~of the System occurs on or after November 1, 2013,~~ or unless he or
 21 she be retired from a municipal fire department in the State of
 22 Oklahoma. This section shall not apply to professional engineers,
 23 or to persons employed as technical specialists on a temporary
 24 basis. The State Board shall be authorized to establish the maximum

1 age, within the limits herein prescribed, over which an applicant
2 may not be considered for initial employment, but no person shall be
3 prohibited from making application for reemployment and having such
4 reemployment application considered merely because of his or her
5 age, provided that such person be under the age of forty-five (45)
6 years, and provided further, that such reemployment shall be with
7 the consent of the fire chief of such municipality.

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

24

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

13 SECTION 9. Section 1 of this act shall become effective October
14 1, 2022.

15 SECTION 10. Sections 2 through 8 of this act shall become
16 effective November 1, 2022.

17 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
18 April 13, 2022 - DO PASS
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