

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 826

By: Howard

AS INTRODUCED

An Act relating to firefighter retirement; amending 11 O.S. 2011, Section 49-106.1, as last amended by Section 3, Chapter 281, O.S.L. 2014 (11 O.S. Supp. 2020, Section 49-106.1), which relates to the deferred option plan; modifying methods of payment for plan participants.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 49-106.1, as last amended by Section 3, Chapter 281, O.S.L. 2014 (11 O.S. Supp. 2020, Section 49-106.1), is amended to read as follows:

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

1 after November 1, 2013, and who has not less than twenty-two (22)
2 years of creditable service and who is eligible to receive a service
3 retirement pension may elect to participate in the Oklahoma
4 Firefighters Deferred Option Plan and defer the receipts of benefits
5 in accordance with the provisions of this section.

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

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

22 D. When a member begins participation in the Oklahoma
23 Firefighters Deferred Option Plan, the contribution of the member
24 shall cease. The employer contributions shall continue to be paid

1 in accordance with subsection B of Section 49-122 of this title.
2 Employer contributions for members who elect the Oklahoma
3 Firefighters Deferred Option Plan shall be credited equally to the
4 Oklahoma Firefighters Pension and Retirement System and to the
5 member's Oklahoma Firefighters Deferred Option Plan account. The
6 monthly retirement benefits that would have been payable had the
7 member elected to cease employment and receive a service retirement
8 shall be paid into the member's Oklahoma Firefighters Deferred
9 Option Plan account.

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

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

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

1 actual rate of return of the investment portfolio of the System,
2 less one (1) percentage point to offset administrative costs of the
3 System as determined by the System.

4 F. A member in the plan shall receive, at the option of the
5 member, a lump-sum payment from the account equal to the payments to
6 the account or an annuity based upon the account of the member or
7 may elect any other method of payment if approved by the Board of
8 Trustees. Any member whose participation in the plan began on or
9 after November 1, 2013, shall receive, at the option of the member,
10 a lump-sum payment from the account equal to the option account
11 balance or a lump-sum payment from the account equal to the option
12 account balance, a direct rollover of the member's option account
13 balance to a qualified individual retirement account or the member
14 may direct payment to a third party annuity provider for purchase of
15 an annuity with the member's option account balance. If a member
16 becomes so physically or mentally disabled while in, or in
17 consequence of, the performance of his or her duty as to prevent the
18 effective performance of his or her duties that the State Board
19 approves an in-line-of-duty disability pension, the payment from the
20 account shall be an in-line-of-duty disability payment.
21 Notwithstanding any other provision contained herein to the
22 contrary, commencement of distributions under the Oklahoma
23 Firefighters Deferred Option Plan shall be no later than the time as
24 set forth in subsection B of Section 49-106 of this title and a

1 member whose first service with a participating municipality of the
2 System occurs on or after November 1, 2013, and who participates for
3 the first time in the Oklahoma Firefighters Deferred Option Plan on
4 or after November 1, 2013, must receive a distribution of the entire
5 remaining balance in the member's Oklahoma Firefighters Deferred
6 Option Plan account no later than April 1 of the calendar year
7 following the later of:

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

10 2. The actual retirement date of the member.

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

1 may elect to receive his or her portion of the account balance of
2 the member in the same manner as was applicable to the member.

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

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

- 10 a. "back drop date" means the member's normal retirement
11 date or the date five (5) years before the member
12 elects to participate in the Oklahoma Firefighters
13 Deferred Option Plan, whichever date is later,
- 14 b. "termination date" means the date the member elects to
15 participate in the Oklahoma Firefighters Deferred
16 Option Plan pursuant to this subsection, and the date
17 the member terminates employment with all
18 participating municipalities as an active firefighter,
- 19 c. "earlier attained credited service" means the credited
20 service earned by a member as of the back drop date,
21 and
- 22 d. "deferred benefit balance" means all monthly
23 retirement benefits that would have been payable had
24 the member elected to cease employment on the back

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

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

1 member has elected to participate in the Oklahoma Firefighters
2 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
3 this section.

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

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

- 9 a. "back drop election date" means the date the surviving
10 spouse or member elects to commence participation in
11 the Oklahoma Firefighters Deferred Option Plan
12 pursuant to subsection H of this section and this
13 subsection,
- 14 b. "interest" means the actuarial assumed interest rate
15 as certified by the actuary in the yearly evaluation
16 report of the actuary,
- 17 c. "monthly adjustment amount" means the difference
18 between the monthly pension prior to the back drop
19 election and the adjusted monthly pension due to the
20 back drop election,
- 21 d. "back drop pension adjustment amount" means the sum of
22 all the monthly adjustment amounts adjusted for
23 interest from the pension commencement date to the
24 back drop election date, and

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

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

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

9 3. If a member has more than twenty (20) years of creditable
10 service, or a member of the Oklahoma Firefighters Pension and
11 Retirement System whose first employment with a participating
12 employer of the System occurs on or after November 1, 2013, and such
13 member has more than twenty-two (22) years of creditable service and
14 is eligible to receive a service retirement pension, and is eligible
15 for a retirement for disability monthly pension pursuant to Section
16 49-109 of this title on or after June 4, 2007, such member shall be
17 eligible to elect to receive a benefit determined as if the member
18 had elected to participate in the Oklahoma Firefighters Deferred
19 Option Plan, in accordance with subsection H of this section, on the
20 day immediately preceding the date of the member's disability
21 retirement, provided such election is made within two (2) years from
22 the date of the member's disability retirement. The disability
23 monthly pension such member is receiving, or entitled to receive,
24 shall be adjusted in accordance with the provisions of subsection H

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

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

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

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

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

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