

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE  
FOR

HOUSE BILL NO. 2487

By: Frix

COMMITTEE SUBSTITUTE

An Act relating to public retirement systems; amending 62 O.S. 2021, Section 3103, which relates to the Oklahoma Pension Legislation Actuarial Analysis Act; modifying definitions; amending 11 O.S. 2021, Sections 49-100.1, 49-101, 49-101.2, 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 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

1 Senate, any conference committee of the House or Senate or by the  
2 House or Senate;

3 2. "RB number" means that number preceded by the letters "RB"  
4 assigned to a retirement bill by the respective staffs of the  
5 Oklahoma State Senate and the Oklahoma House of Representatives when  
6 the respective staff office prepares a retirement bill for a member  
7 of the Legislature;

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

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

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

18 a. which does not affect the cost or funding factors of a  
19 retirement system,

20 b. which affects such factors only in a manner which does  
21 not:

22 (1) grant a benefit increase under the retirement  
23 system affected by the bill,

24

- 1 (2) create an actuarial accrued liability for or  
2 increase the actuarial accrued liability of the  
3 retirement system affected by the bill, or  
4 (3) increase the normal cost of the retirement system  
5 affected by the bill,

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

1 if such persons had any prior service in the Oklahoma  
2 Public Employees Retirement System prior to November  
3 1, 2015,

4 f. which provides for a one-time increase in retirement  
5 benefits if the increase in retirement benefits is not  
6 a permanent increase in the gross annual retirement  
7 benefit payable to a member or beneficiary, occurs  
8 only once pursuant to a single statutory authorization  
9 and does not exceed:

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

18 (2) the lesser of two percent (2%) of the gross  
19 annual retirement benefit of the member or One  
20 Thousand Two Hundred Dollars (\$1,200.00) and  
21 requires that the benefit may only be provided if  
22 the funded ratio of the affected retirement  
23 system would be greater than eighty percent (80%)  
24

1 but not greater than one hundred percent (100%)  
2 after the benefit increase is paid,

3 (3) the lesser of two percent (2%) of the gross  
4 annual retirement benefit of the member or One  
5 Thousand Four Hundred Dollars (\$1,400.00) and  
6 requires that the benefit may only be provided if  
7 the funded ratio of the affected retirement  
8 system would be greater than one hundred percent  
9 (100%) after the benefit increase is paid, or

10 (4) the greater of two percent (2%) of the gross  
11 annual retirement benefit of the volunteer  
12 firefighter or One Hundred Dollars (\$100.00) for  
13 persons who retired from the Oklahoma  
14 Firefighters Pension and Retirement System as  
15 volunteer firefighters and who did not retire  
16 from the Oklahoma Firefighters Pension and  
17 Retirement System as a paid firefighter.

18 As used in this subparagraph, "funded ratio" means the  
19 figure derived by dividing the actuarial value of  
20 assets of the applicable retirement system by the  
21 actuarial accrued liability of the applicable  
22 retirement system,

23 g. which modifies the disability pension standard for  
24 police officers who are members of the Oklahoma Police

Pension and Retirement System as provided by Section 3  
of this act, or

h. which provides a cost-of-living benefit increase  
pursuant to the provisions of Sections 2 through 7 of  
this act, or

i. which restores benefits pursuant to Section 2 through  
8 of this act.

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

6. "Reduction-in-cost amendment" means an amendment to a  
retirement bill having a fiscal impact which reduces the cost of the  
bill as such cost is determined by the actuarial investigation for  
the bill prepared pursuant to Section 3109 of this title;

7. "Retirement bill" means any bill or joint resolution  
introduced or any bill or joint resolution amended by a member of  
the Oklahoma Legislature which creates or amends any law directly  
affecting a retirement system. A retirement bill shall not mean a  
bill or resolution that impacts the revenue of any state tax in

1 which a portion of the revenue generated from such tax is earmarked  
2 for the benefit of a retirement system;

3 8. "Retirement bill having a fiscal impact" means any  
4 retirement bill creating or establishing a retirement system and any  
5 other retirement bill other than a nonfiscal retirement bill; and

6 9. "Retirement system" means the Teachers' Retirement System of  
7 Oklahoma, the Oklahoma Public Employees Retirement System, the  
8 Uniform Retirement System for Justices and Judges, the Oklahoma  
9 Firefighters Pension and Retirement System, the Oklahoma Police  
10 Pension and Retirement System, the Oklahoma Law Enforcement  
11 Retirement System, or a retirement system established after January  
12 1, 2006.

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

15 Section 49-100.1 As used in this article:

16 1. "System" means the Oklahoma Firefighters Pension and  
17 Retirement System and all predecessor municipal firefighters pension  
18 and retirement systems;

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

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

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

24

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

3       6. "Member" means all eligible firefighters of a participating  
4 municipality or a fire protection district who perform the essential  
5 functions of fire suppression, prevention, and life safety duties in  
6 a fire department. The term "member" shall include but not be  
7 limited to the person serving as fire chief of any participating  
8 municipality, provided that a person serving as fire chief of a  
9 participating municipality shall meet the age, agility, physical and  
10 other eligibility requirements required by law at the time said  
11 person becomes a member of the System. Effective July 1, 1987, a  
12 member does not include a "leased employee". The term "leased  
13 employee" means any person (other than an employee of the recipient)  
14 who pursuant to an agreement between the recipient and any other  
15 person ("leasing organization") has performed services for the  
16 recipient (or for the recipient and related persons determined in  
17 accordance with Section 414(n)(6) of the Internal Revenue Code of  
18 1986, as amended) on a substantially full-time basis for a period of  
19 at least one (1) year, and such services are performed under primary  
20 direction or control by the recipient. Contributions or benefits  
21 provided a leased employee by the leasing organization which are  
22 attributable to services performed for the recipient employer shall  
23 be treated as provided by the recipient employer. A leased employee  
24 shall not be considered an employee of the recipient if the

1 requirements of the safe harbor provisions of Section 414(n) (5) of  
2 the Internal Revenue Code of 1986, as amended, are satisfied.  
3 Effective July 1, 1999, any individual who agrees with the  
4 participating municipality that the individual's services are to be  
5 performed as a leased employee or an independent contractor shall  
6 not be a member regardless of any classification as a common law  
7 employee by the Internal Revenue Service or any other governmental  
8 agency, or any court of competent jurisdiction;

9 7. "Normal retirement date" means the date at which the member  
10 is eligible to receive the unreduced payments of the member's  
11 accrued retirement benefit. Such date shall be the first day  
12 following the date the member completes twenty (20) years of  
13 credited service. ~~For a member whose first employment with a~~  
14 ~~participating employer of the System occurs on or after November 1,~~  
15 ~~2013, such date shall be the first day following the date the member~~  
16 ~~completes twenty-two (22) years of credited service and has attained~~  
17 ~~the age of at least fifty (50) years. If the member's employment~~  
18 ~~continues past the normal retirement date of the member, the actual~~  
19 ~~retirement date of the member shall be the first day following the~~  
20 ~~date the member terminates employment with more than twenty (20)~~  
21 ~~years of credited service, or with respect to members who are~~  
22 ~~required to complete twenty-two (22) years of service, the first day~~  
23 ~~following the date the member terminates employment with more than~~

24

1 ~~twenty two (22) years of service and who has also attained the age~~  
2 ~~of at least fifty (50) years;~~

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

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

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

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

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

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

10 14. "Final average salary" means the average paid gross salary  
11 of the firefighter for normally scheduled hours over the highest  
12 salaried thirty (30) consecutive months of the last sixty (60)  
13 months of credited service. Gross salary shall not include payment  
14 for accumulated sick or annual leave upon termination of employment,  
15 any uniform allowances or any other compensation for reimbursement  
16 of out-of-pocket expenses. Only salary on which the required  
17 contributions have been made may be used in computing the final  
18 average salary. Effective January 1, 1988, gross salary shall  
19 include any amount of elective salary reduction under Section 125 of  
20 the Internal Revenue Code of 1986, as amended. Gross salary shall  
21 include any amount of elective salary reduction under Section 457 of  
22 the Internal Revenue Code of 1986, as amended, and any amount of  
23 nonelective salary reduction under Section 414(h) of the Internal  
24 Revenue Code of 1986, as amended. Effective July 1, 1998, for

1 purposes of determining a member's compensation, any contribution by  
2 the member to reduce the member's regular cash remuneration under  
3 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be  
4 treated as if the member did not make such an election. Only salary  
5 on which required contributions have been made may be used in  
6 computing final average salary.

7 In addition to other applicable limitations, and notwithstanding  
8 any other provision to the contrary, for plan years beginning on or  
9 after July 1, 2002, the annual gross salary of each "Noneligible  
10 Member" taken into account under the System shall not exceed the  
11 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")  
12 annual salary limit. The EGTRRA annual salary limit is Two Hundred  
13 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for  
14 increases in the cost of living in accordance with Section  
15 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The  
16 annual salary limit in effect for a calendar year applies to any  
17 period, not exceeding twelve (12) months, over which salary is  
18 determined ("determination period") beginning in such calendar year.  
19 If a determination period consists of fewer than twelve (12) months,  
20 the EGTRRA salary limit will be multiplied by a fraction, the  
21 numerator of which is the number of months in the determination  
22 period, and the denominator of which is twelve (12). For purposes  
23 of this subsection, a "Noneligible Member" is any member who first  
24

1 became a member during a plan year commencing on or after July 1,  
2 1996.

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

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

15 Effective June 9, 2010, any payments not described above shall  
16 not be considered gross salary if paid after severance from  
17 employment, even if they are paid by the later of two and one-half  
18 (2 1/2) months after the date of severance from employment or the  
19 end of the calendar year that includes the date of severance from  
20 employment, except payments to an individual who does not currently  
21 perform services for the participating municipality by reason of  
22 qualified military service within the meaning of Section 414(u)(5)  
23 of the Internal Revenue Code of 1986, as amended, to the extent  
24 these payments do not exceed the amounts the individual would have

1 received if the individual had continued to perform services for the  
2 participating municipality rather than entering qualified military  
3 service.

4 Effective June 9, 2010, back pay, within the meaning of Section  
5 1.415(c)-2(g)(8) of the Income Tax Regulations, shall be treated as  
6 gross salary for the year to which the back pay relates to the  
7 extent the back pay represents wages and compensation that would  
8 otherwise be included in this definition.

9 Effective for years beginning after December 31, 2008, gross  
10 salary shall also include differential wage payments under Section  
11 414(u)(12) of the Internal Revenue Code of 1986, as amended;

12 15. "Accrued retirement benefit" means two and one-half percent  
13 (2 1/2%) of the firefighter's final average salary multiplied by the  
14 member's years of credited service not to exceed thirty (30) years;

15 16. "Beneficiary" means a member's surviving spouse or any  
16 surviving children, including biological and adopted children, at  
17 the time of the member's death. The surviving spouse must have been  
18 married to the firefighter for the thirty (30) continuous months  
19 preceding the firefighter's death provided a surviving spouse of a  
20 member who died while in, or as a consequence of, the performance of  
21 the member's duty for a participating municipality, shall not be  
22 subject to the marriage limitation for survivor benefits. A  
23 surviving child of a member shall be a beneficiary until reaching  
24 eighteen (18) years of age or twenty-two (22) years of age if the

1 child is enrolled full time and regularly attending a public or  
2 private school or any institution of higher education. Any child  
3 adopted by a member after the member's retirement shall be a  
4 beneficiary only if the child is adopted by the member for the  
5 thirty (30) continuous months preceding the member's death. Any  
6 child who is adopted by a member after the member's retirement and  
7 such member dies accidentally or as a consequence of the performance  
8 of the member's duty as a firefighter shall not be subject to the  
9 thirty-month adoption requirement. This definition of beneficiary  
10 shall be in addition to any other requirement set forth in this  
11 article;

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

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

23 SECTION 3. AMENDATORY 11 O.S. 2021, Section 49-101, is  
24 amended to read as follows:

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

14 B. ~~If a A volunteer firefighter whose first service with a~~  
15 ~~participating employer of the System occurs prior to November 1,~~  
16 ~~2013, who terminates service after completing ten (10) years of~~  
17 ~~credited service, the volunteer firefighter shall but less than~~  
18 ~~twenty (20) years of credited service, shall be entitled to receive~~  
19 ~~a vested benefit. The volunteer firefighter whose first service~~  
20 ~~with a participating employer of the System occurs prior to November~~  
21 ~~1, 2013, shall be entitled to a monthly pension commencing on the~~  
22 ~~date the firefighter reaches fifty (50) years of age or the date the~~  
23 ~~firefighter would have had twenty (20) years of credited service had~~  
24 ~~the firefighter's service continued uninterrupted, whichever is~~

1 later. ~~If a volunteer firefighter whose first service with a~~  
2 ~~participating employer of the System occurs on or after November 1,~~  
3 ~~2013, terminates service after completing eleven (11) years of~~  
4 ~~credited service, the volunteer firefighter shall receive a vested~~  
5 ~~benefit. The volunteer firefighter whose first service with a~~  
6 ~~participating employer of the System occurs on or after November 1,~~  
7 ~~2013, shall be entitled to a monthly pension commencing on the date~~  
8 ~~the firefighter reaches fifty (50) years of age or the date the~~  
9 ~~firefighter would have had twenty-two (22) years of credited service~~  
10 ~~had the firefighter's service continued uninterrupted, whichever is~~  
11 ~~later. The monthly amount of such retirement benefit shall be the~~  
12 ~~amount being paid to volunteer firefighters at the time the member~~  
13 ~~vests multiplied by the number of years of credited service.~~  
14 ~~Credited service must be established at the time of the volunteer~~  
15 ~~firefighter's termination. If a volunteer firefighter who~~  
16 ~~terminates~~ terminated employment and ~~receives~~ elected, or was  
17 eligible to elect, a vested benefit dies prior to being eligible to  
18 receive benefits, the volunteer firefighter's beneficiary, as  
19 defined in paragraph 16 of Section 49-100.1 of this title, shall be  
20 entitled to the volunteer firefighter's normal monthly retirement  
21 benefit on the date the deceased volunteer firefighter would have  
22 been eligible to receive the benefit.

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

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

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

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

1 than twenty (20) years of creditable service, ~~or any member of the~~  
2 ~~Oklahoma Firefighters Pension and Retirement System whose first~~  
3 ~~employment with a participating employer of the System occurs on or~~  
4 ~~after November 1, 2013, and who has not less than twenty two (22)~~  
5 ~~years of creditable service and who is eligible to receive a service~~  
6 ~~retirement pension~~ may elect to participate in the Oklahoma  
7 Firefighters Deferred Option Plan and defer the receipts of benefits  
8 in accordance with the provisions of this section.

9 B. For purposes of this section, creditable service shall  
10 include service credit reciprocally recognized pursuant to Sections  
11 49-100.1 through 49-100.8 and Sections 49-101, 49-101.1 and 49-101.2  
12 of this title but for eligibility purposes only.

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

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

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

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

21 3. Effective November 1, 2013, the Oklahoma Firefighters  
22 Deferred Option Plan account for a member whose first service with a  
23 participating municipality of the System occurs on or after November  
24 1, 2013, and who participates for the first time in the Oklahoma

1 Firefighters Deferred Option Plan on or after November 1, 2013, and  
2 has completed active participation in the Oklahoma Firefighters  
3 Deferred Option Plan, shall earn interest at a rate equal to the  
4 actual rate of return of the investment portfolio of the System,  
5 less one (1) percentage point to offset administrative costs of the  
6 System as determined by the System.

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

1 Option Plan account no later than April 1 of the calendar year  
2 following the later of:

3 1. The calendar year in which the member reaches seventy and  
4 one-half (70 1/2) years of age for a member who attains age seventy  
5 and one-half (70 1/2) before January 1, 2020, or effective for  
6 distributions required to be made after December 31, 2019, the  
7 calendar year in which the member reaches seventy-two (72) years of  
8 age for an individual who attains age seventy and one-half (70 1/2)  
9 after December 31, 2019; 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.

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

10 Section 49-108. A. Any volunteer firefighter who is appointed  
11 as a paid firefighter ~~whose first service with a participating~~  
12 ~~employer of the System occurs prior to November 1, 2013,~~ and serves  
13 less than ten (10) years as a paid firefighter, shall be entitled to  
14 receive one-twentieth (1/20) of a volunteer pension earned over  
15 twenty (20) years for each full year served as a volunteer  
16 firefighter and one-twentieth of one-half (1/20 of 1/2) of the  
17 average salary received for each full year the firefighter served as  
18 a paid firefighter. ~~Any volunteer firefighter who is appointed as a~~  
19 ~~paid firefighter whose first service with a participating employer~~  
20 ~~of the System occurs on or after November 1, 2013, and serves less~~  
21 ~~than eleven (11) years as a paid firefighter, shall be entitled to~~  
22 ~~receive one twenty-second (1/22) of a volunteer pension earned over~~  
23 ~~twenty-two (22) years for each full year served as a volunteer~~  
24 ~~firefighter and one twenty-second of fifty five percent (1/22 of~~

1 ~~55%) of the average salary received for each full year the~~  
2 ~~firefighter served as a paid firefighter.~~

3 B. Any volunteer firefighter who is appointed as a paid  
4 firefighter after May 15, 1992, ~~whose first service with a~~  
5 ~~participating employer of the System occurs prior to November 1,~~  
6 ~~2013,~~ and serves ten (10) or more years as a paid firefighter, shall  
7 be entitled to credit no more than five (5) years of volunteer time  
8 to complete a twenty-year paid service pension with remaining  
9 volunteer time computed at one-twentieth (1/20) of a volunteer  
10 pension earned over twenty (20) years for each additional volunteer  
11 year. ~~Any volunteer firefighter who is appointed as a paid~~  
12 ~~firefighter before May 15, 1992, and serves ten (10) or more years~~  
13 ~~as a paid firefighter, shall be entitled to credit all of the~~  
14 ~~firefighter's volunteer time to complete a twenty-year paid service~~  
15 ~~pension. Any volunteer firefighter who is appointed as a paid~~  
16 ~~firefighter whose first service with a participating employer of the~~  
17 ~~System occurs on or after November 1, 2013, and serves eleven (11)~~  
18 ~~or more years as a paid firefighter, shall be entitled to credit no~~  
19 ~~more than five (5) years of volunteer time to complete a twenty-two-~~  
20 ~~year paid service pension with remaining volunteer time computed at~~  
21 ~~one-twenty-second (1/22) of a volunteer pension earned over twenty-~~  
22 ~~two (22) years for each additional volunteer year.~~

23 C. For purposes of determining benefits pursuant to this  
24 section, total credited service for paid and volunteer service shall

1 not exceed thirty (30) years; provided, the most recent years of  
2 service shall be used in determining total credited service for paid  
3 and volunteer service.

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

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

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

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

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

1        ~~D.~~ If the member who has completed ten (10) or more years of  
2 credited service as prescribed by subsection B 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 (20)  
6 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        ~~E.~~ ~~If the member who has completed eleven (11) or more years of~~  
15 ~~credited service as prescribed by subsection C 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 two~~  
19 ~~(22) 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 ~~F. D.~~ If a member who ~~terminates~~ terminated employment and  
4 ~~elects~~ elects, or was eligible to elect, a vested benefit dies  
5 prior to being eligible to receive benefits, the member's  
6 beneficiary, as defined in paragraph 16 of Section 49-100.1 of this  
7 title, shall be entitled to the member's normal monthly retirement  
8 benefit on the date the deceased member would have been eligible to  
9 receive the benefit.

10 ~~G. E.~~ If a member terminates employment and withdraws the  
11 member's accumulated contributions and then subsequently rejoins the  
12 System, he may pay to the System the sum of the accumulated  
13 contributions he has withdrawn plus five percent (5%) annual  
14 interest from the date of withdrawal and shall receive the same  
15 benefits as if he had never withdrawn his contributions; however,  
16 effective January 1, 1991, the rate of interest provided herein  
17 shall be ten percent (10%) per annum.

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

23

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1        ~~F.~~ G. A firefighter shall not be permitted to withdraw from the  
 2 System while employed as a firefighter in a participating  
 3 municipality.

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

6        Section 49-135. A. No person shall be employed in a fire  
 7 department who has reached the age of forty-five (45) years, unless  
 8 it appears he or she shall become eligible for retirement at the age  
 9 of sixty-five (65) years, ~~or at the age of sixty-seven (67) years~~  
 10 ~~for a firefighter whose first service with a participating employer~~  
 11 ~~of the System occurs on or after November 1, 2013,~~ or unless he or  
 12 she be retired from a municipal fire department in the State of  
 13 Oklahoma. This section shall not apply to professional engineers,  
 14 or to persons employed as technical specialists on a temporary  
 15 basis. The State Board shall be authorized to establish the maximum  
 16 age, within the limits herein prescribed, over which an applicant  
 17 may not be considered for initial employment, but no person shall be  
 18 prohibited from making application for reemployment and having such  
 19 reemployment application considered merely because of his or her  
 20 age, provided that such person be under the age of forty-five (45)  
 21 years, and provided further, that such reemployment shall be with  
 22 the consent of the fire chief of such municipality.

23        B. On or after the effective date of this act, a person who  
 24 performs volunteer services as a firefighter, who has attained the

1 age of forty-five (45) or more years as of the first date such  
2 volunteer services are performed, for a municipality or a county  
3 shall not be eligible to be a member of the Oklahoma Firefighters  
4 Pension and Retirement System for any purpose, shall not be eligible  
5 for any benefit payable by the System and shall not receive any form  
6 of service credit from the System resulting from such volunteer  
7 services. The person responsible for decisions regarding the  
8 performance of firefighting services having jurisdiction, which in  
9 the absence of any other requirement to the contrary shall be the  
10 Fire Chief, shall make the final determination on applicants for  
11 positions that would involve the performance of volunteer  
12 firefighting services if the applicant is over the age of forty-five  
13 (45) years based on local rules, regulations, ordinances, guidelines  
14 and standard operating procedures.

15 C. Notwithstanding the requirements of subsections C and H of  
16 Section 49-106.1 of this title to terminate employment with all  
17 participating municipalities as a firefighter, a person receiving an  
18 accrued retirement benefit pursuant to Section 49-106 of this title  
19 may perform volunteer firefighting services for a volunteer  
20 department pursuant to subsection B of this section and continue to  
21 receive the member's accrued retirement benefit; provided, that the  
22 pension shall cease during any period of time the member may  
23 thereafter serve for compensation in any municipal fire department  
24 in the state; provided further, that no person shall perform any

1 services as a firefighter if such person is receiving disability  
2 benefits pursuant to Section 49-109 of this title.

3 SECTION 9. Section 1 of this act shall become effective October  
4 1, 2022.

5 SECTION 10. Sections 2 though 8 of this act shall become  
6 effective November 1, 2022.

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