

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2487

By: Frix

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to public retirement systems;
10 amending 62 O.S. 2021, Section 3103, which relates to
11 the Oklahoma Pension Legislation Actuarial Analysis
12 Act; modifying definitions; amending 11 O.S. 2021,
13 Sections 49-100.1, 49-101, 49-101.2, 49-106.1, 49-
14 108, 49-117.1 and 49-135, which relate to the
15 Oklahoma Firefighters Pension and Retirement System;
16 modifying definition; modifying requirements to
17 receive certain benefit; modifying requirements to
18 participate in certain plans; modifying requirements
19 to receive volunteer pension; and providing effective
20 dates.

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

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

24 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

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

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

6 i. which restores benefits pursuant to Section 2 through
7 8 of this act.

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

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

19 7. "Retirement bill" means any bill or joint resolution
20 introduced or any bill or joint resolution amended by a member of
21 the Oklahoma Legislature which creates or amends any law directly
22 affecting a retirement system. A retirement bill shall not mean a
23 bill or resolution that impacts the revenue of any state tax in
24

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;

24

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

24

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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8 COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND
9 PENSIONS, dated 03/01/2022 - DO PASS, As Amended.

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