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Elected by Firefighters (Term expires June 2006)

Frank Stone, Oklahoma City
Designee of State Insurance Commissioner, (Ex Officio)

James Wilbanks, Oklahoma City, Designee of
Director of State Finance (Ex Officio)

This book was compiled by the staff of the
OKLAHOMA FIREFIGHTERS PENSION AND RETIREMENT SYSTEM

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CITY CLERKS, FIRE CHIEFS AND LOCAL PENSION BOARDS

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**RULES OF THE
OKLAHOMA FIREFIGHTERS PENSION AND RETIREMENT SYSTEM**

Adopted Pursuant To The Oklahoma Administrative Procedures Act Title
75, Sections 301-326 of the Oklahoma Statutes Effective June 26, 2004

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OKLAHOMA FIREFIGHTERS
PENSION & RETIREMENT SYSTEM
HANDBOOK FOR
CITY CLERKS, FIRE CHIEFS, AND
LOCAL PENSION BOARDS 2005 -2006

Existine local firefiethers pension and retirement boards

1. Are all participating municipalities required to use local firefighter pension and retirement boards?

No, the following is a list of those participating municipalities authorized and required to use local firefighter pension and retirement boards:

Ada	Dickson	Lexington	Salisaw Sand
Altus	Dougherty	Locust Grove	Springs
Bartlesville	Edgewater Park	Marland	Seiling
Beaver	Elk City	Marshall	Skiatook
Billings	Eufaula	Maysville	Spencer
Bixby	Gage	McAlester	Springer
Boise City	Garber	Moore	Stillwater
Canute	Glenpool	Muskogee	Stilwell
Chickasha	Grayson	Newkirk	SWODA
Claremore	Guthrie	Norge	Tipton
Clinton	Guymon	Norman	Tulsa
Colbert Cole	Hammon	Oklahoma City	Vinita
Council Hill	Hydro	Okmulgee	Walters
Crowder	Jenks	Optima	Weatherford
Deer Creek	Jones	Pauls Valley	Wyandotte
Dibble	Kingfisher	Pawhuska	Yale
	Leedy	Rolling Hills	Zena

No other participating municipalities may use a local firefighter pension and retirement board.

2. What is the organizational structure of a local firefighter pension and retirement board?

For **cities and towns**, the mayor, city clerk, city treasurer and three (3) firefighters from the local fire department make up the local board. For a **county fire department or fire protection district**, the chairman, clerk and treasurer of the board of directors and three (3) firefighters from the local fire department make up the local board. The firefighter members of the local board shall be elected by ballot vote cast by the active members of the local fire departments. One elected member shall serve for the term of one (1) year, one for the term of two (2) years, and one for the term of three (3) years. Thereafter, the active members of the local fire department shall elect every year, by ballot vote, one of its members to serve for the term of three (3) years.

The mayor or chairman of the board of directors shall be an ex-officio member and serve as chairman of the local board and shall have a casting vote with the members only when necessary to avoid a tie vote. The city clerk or clerk of the board of directors shall serve as the secretary of the local board. In cities and towns where the clerk and treasurer hold both positions, the local board becomes a five (5) member board. The members shall elect a vice-chairman from among them and put into action such other rules and offices as may be necessary to insure the orderly conduct of business. If the city charter provides, the city councilor similar authority, in the absence of the mayor, clerk or treasurer, may designate an authorized official as an alternate member to the local board if the alternate member has the responsibilities of the standing board member. A firefighter member of a local board may not

have an alternate. Elected board members can be, for due cause, recalled in the same manner as other elected officials.

3. What are the duties of a local firefighters pension and retirement board?

The local board is required to review applications for retirement benefits. The local board shall recommend the approval, disapproval or modification of each application to the state board. Deliberations by the local board shall be pursuant to state statute and the administrative rules of the pension system. The local board shall forward such recommendations to the state board within ten (10) days following the local board's decision. The System shall furnish all required forms necessary so as to allow the local board to carry out its responsibilities.

4. When is a local firefighter's pension and retirement board required to meet?

The local board meets whenever action is required to approve, disapprove or modify applications for retirement benefits. All meetings of the local board are subject to the provisions of the Oklahoma Open Meeting Act.

5. How is a meeting of a local firefighter's pension and retirement board to be conducted?

Any actions deliberated by the local board must be documented. The minutes must show the action taken by roll call vote and must be signed by the chairman or vice-chairman and the secretary. Only those members who are present may vote. As stated earlier, all deliberations of the local board shall be pursuant to state statute and the administrative rules governing the System.

The State Board meets the third Friday of each month unless otherwise scheduled. The meetings of the local board should be scheduled so that the State Board receives the applications by the second Friday of the month. This will allow sufficient time for the applications to be processed and placed on the agenda of the State Board pursuant to the rules of the Oklahoma Open Meeting Act.

All pension benefits are paid in arrears the last working day of the month. No applications can be approved until the applicant is terminated from the fire department. Example: an applicant terminating employment on the 31st of month will be approved at the State Board meeting the following month allowing the applicant to receive a full month's benefit on the last working day of that month.

NOTE: THERE IS A SAMPLE MEETING NOTICE AND SAMPLE MINUTES LOCATED AT THE END OF THIS HANDBOOK.

Procedures **where** a local **pension and** retirement board **no** longer exists

6. What procedure is followed to process applications where a local board ceases to exist?

State statute provides that where a local board ceases to exist, the Executive Director of the System shall assume the role and responsibilities vacated by the local board. A member seeking to make application for a pension benefit is advised as follows:

- A. Contact the fire chief, clerk or the System directly for information in processing a benefit application.

B. The System will have an assigned staff member to assist the member, fire chief or city clerk in the processing of the application.

C. Mail the completed application to the System for final processing and placement on the State Board's agenda.

Clerk and fire chief

7. What are the duties of the clerk and fire chief?

The clerk and fire chief share the responsibility for the administration of local retirement issues related to all contributing members of the Oklahoma Firefighters Pension and Retirement System including the emolument of all eligible members, assistance in benefit applications and collection and payment of all employer and member contributions.

8. What if there is a personnel change in the clerk or fire chief?

Notify the System of the name and address of a new clerk or fire chief and give the phone number where either can be reached during business hours.

9. What information is available from the System to assist the clerk and fire chief?

The System provides this handbook, which is published on an annual basis. The handbook contains state statutes, administrative rules, question and answer section and forms for processing applications to the system.

10. What is your code?

Numerical codes have been assigned by the System to all cities, fire districts, county fire departments and development authorities that participate in the Oklahoma Firefighters Pension and Retirement System. These codes are utilized as important part of the orderly administration of the System and are listed at the back of this handbook.

11. What if there is a change in a member's personal information status?

The clerk should notify the System concerning changes in an active member's personal information. Items that need to be reported are marriage and birth dates for spouses and dates of birth for children under age eighteen (18). In the event of a divorce, a copy of the divorce decree is required to remove a spouse. All of the above referenced items and other personal information are found on the Change in Personal Information Form (Form 15) which shall be completed and filed with the System. A revised Death Benefit Recipient Form (Form 11) may also need to be completed and filed with the System.

12. What are the confidentiality requirements regarding member records?

All information, documents and copies thereof contained in a member's file, active or retired, shall be given confidential treatment and shall not be made public by the Oklahoma Firefighters Pension and Retirement System without the prior written consent of the member to which it pertains, but shall be subject to subpoena or court order.

Membership enrollment in the Oklahoma Firefighters Pension and Retirement System

13. Who is eligible for membership in the System?

All paid and volunteer personnel of a participating municipality, fire protection district, county fire department and developmental authority who perform the essential duties of fire suppression, prevention and life safety duties in a fire department are eligible for membership. Participation in the System is mandatory for all eligible personnel.

14. What is the minimum and maximum age limit for initial employment as a firefighter?

Pursuant to the Fair Labor Standards Act regarding working in a hazardous condition, no person shall be employed as a firefighter unless they are age eighteen (18) years or older. Federal Law (ADEA) prohibited age discrimination for older workers past the age of forty (40), effective October 15, 1992. However, the prohibition was rescinded for firefighters effective July 1, 1996. Accordingly, no person will be allowed to enter the System as a **new** member if age forty-five (45) years or older.

Paid Firefighters

15. What is the procedure for enrolling a new paid firefighter in the System?

- A. The applicant must successfully pass a State Board approved performance/agility test.
- B. The applicant must successfully pass a physical examination as promulgated by the rules of the State Board.
- C. The participating municipality must forward the results of the performance/agility test and physical examination along with an application for entrance form (Form 13) to the System.
- D. When all the information is received the Executive Director will deny or approve the application and if approved will establish a hire date as of the date the information is received or the actual hire date whichever is later.

(Note: If an applicant is an active volunteer firefighter and has successfully passed a State Board approved performance/agility test in the same department and is making application for a paid position in that same department, an additional performance/agility test will not be required.)

16. What is the difference between a performance/agility test and a physical examination?

A performance/agility test demonstrates the ability to perform actual or simulated job-related tasks and is not a medical examination. The performance/agility test is used to determine if an applicant can perform job functions and therefore is administered at the pre-offer stage of initial employment. Employers may also ask at the pre-offer stage of employment about the applicant's ability to perform a specific job function unrelated to the applicant's medical condition. The employment physical examination is administered after a conditional offer of employment is made. It is used to determine if the applicant meets the minimum medical standards of the System, to establish pre-existing medical conditions and to determine if reasonable accommodations can be made in order for the applicant to perform the required job functions.

17. What are the ADA hiring considerations regarding membership in the System?

The provisions of the ADA concerning medical examinations and disability related injuries reflect the intent of Congress to prevent discrimination against individuals with "hidden" disabilities such as epilepsy, diabetes, mental illnesses, heart disease, HIV infections, or AIDS and cancer. The guiding principle of these provisions is that while employers may ask applicants about the ability to perform job functions, they may not ask about disabilities at the pre-offer stage of employment. ADA will not allow any questions about a disability under the law and employers may not inquire about the existence, nature or severity of a disability during the pre-offer stage of employment. Further, an employer may not conduct medical examinations until a determination is made that the applicant is qualified for the job and a conditional offer of employment is made. This prohibition is to ensure that an applicant's possible hidden disability, including a prior history of a disability, is not considered by the employer prior to the assessment of the applicant's non-medical qualification.

18. What assistance does the State Board provide fire departments regarding ADA compliance?

The State Board has adopted rules to conform to the ADA. A job description for entry-level personnel has been adopted by the State Board and should be adopted by your department. Volunteer fire departments are not subject to the physical examination requirements of the system however, some volunteer departments are administering performance/agility tests and physical examinations. Paid firefighters are required by law to be administered performance/agility tests and physical examinations. The state board will allow a participating municipality to develop their own performance/agility test if it meets the minimum requirements of the state board adopted performance/agility test. **The State Board must approve the participating municipality's performance/agility test before it can be administered.** The performance/agility test is of paramount importance and must relate to the job description so as not to violate the ADA. The performance/agility test must be generic in nature and must not require fire ground functions that would require training to pass the test. The performance/agility test should be such that an untrained applicant could reasonably be expected to complete in a satisfactory manner. **The performance/agility test must be given before a position as a paid firefighter can be offered.**

19. What are the specific forms and procedures provided by the State Board to assist in ADA compliance?

A Form 9 is used to administer the minimum performance/agility test. A Form 10 is the waiver and release form for the applicant to sign. On the back of the Form 10 is an optional Personal Physician's Release of the applicant. The Applicant Waiver and Release and Personal Physician's Release are of paramount importance. Remember, you are asking an applicant to take a performance/agility test without even taking vital signs or asking questions concerning the applicant's medical history.

It is strongly recommended that the applicant is provided a copy of the job description, performance/agility test and release forms upon making application. The required tests should be explained to the applicant so that the applicant can physically prepare for the test. The applicant should also be advised that the tests are physically demanding and require some physical preparation, which will allow the applicant to make a decision as to their physical ability to successfully complete the required tests. Two (2) witnesses should sign the completed performance/agility test. One witness should be the person administering the test and the other witness a person who observed the test.

Upon successful completion of the performance/agility test, you can then conditionally offer the applicant a firefighter position. The applicant is now ready for the physical examination. A physician shall conduct the examination and provide the participating municipality the results on the Physical Exam and Laboratory Assessment Form (Form 14). The participating municipality will then forward, to the State Board, copies of the completed physical examination (Form 14), performance/agility test (Form 9) and an Entrance Application Form (Form 13) including the hire date and signed by the Fire Chief and the applicant. The testing procedure will take some planning to allow the application to be processed in a timely manner. The state office, if requested, will assist you in the process.

20. Must a paid firefighter complete another physical examination after terminating from one participating municipality and going to work for another participating municipality as a paid firefighter?

A. If the firefighter goes to work within six (6) months after termination the firefighter would not be required to complete another physical examination.

B. If a firefighter transfers to your participating municipality from another participating municipality, notify the state office immediately by sending a new completed Entrance Application Form (Form 13). This will allow the System to update the records so that contributions can be accepted.

Contributions-Paid Firefighter

21. What is the procedure for reporting paid firefighter and employer contributions?

A. Report after every payroll- no later than ten (10) days after the pay period ending date.
IMPORTANT: IF CONTRIBUTIONS ARE NOT RECEIVED IN OUR OFFICE WITHIN THIRTY (30) DAYS FROM THE PAY PERIOD ENDING DATE, A ONE AND ONE-HALF PERCENT (1 1/2%) PER MONTH CHARGE WILL BE ADDED.

B. Use the pre-list (list shows each active firefighter) which is mailed from the state office.

C. Return the pre-list showing the RID: period ending date and total contributions paid along with a check for both the employer and employee's share of contributions to the Oklahoma Firefighters Pension & Retirement System.

22. What is a pre list and where is it obtained?

A. A pre-list is a computerized statement of your last payroll report. It lists all current active paid firefighters, social security numbers, gross salary and contributions reported.

B. A pre-list will be mailed to you from the System after your last payroll report has been processed. If you should not receive your pre-list you may use a copy of the previous month's report.

23. How do I fill out the pre-list?

A. Put the pay period ending date in the upper right hand corner and include month, day and year.

B. Check social security numbers and spelling of firefighter names.

C. Line through all terminated firefighters and list termination date and reason for termination.

D. Write in all new firefighters, making sure social security number and spelling of names are correct. DO NOT send contributions on any firefighter who has not been approved for entrance by the Executive Director.

E. Total gross receipts and employee and employer contribution columns at the bottom of the page.

F. Employer contribution share shall be thirteen percent (13%) of total gross salary and employee's contribution shall be eight percent (8%) of total gross salary.

G. Make your check payable to the Oklahoma Firefighters Pension & Retirement System and mail the pre-list and check(s) to the state office.

H. It will be helpful if you keep a copy of the pre-list you send the System to verify your contributions at the end of the year with the amount the System has shown for you and your employees.

24. How are paid firefighter contributions determined?

State statute establishes paid firefighter contributions. Currently, the contribution amount for paid firefighters is eight percent (8%) of total gross salary paid each month and employer contributions are thirteen percent (13%) of total gross salary paid to the firefighter each month.

Firefighter contributions shall be deducted from the total gross salary prior to federal and state tax withholdings.

25. Which payroll items are included as a part of total gross salary?

Examples of items included as part of total gross salary are: base pay, longevity pay, EMT pay, EMT-Paramedic pay, scuba pay, lead man pay, out of class pay, education pay, red book pay, one-time bonus pay, fitness pay, and FLSA scheduled overtime pay. In addition, sick and vacation leave buy back pay when done on an annual basis and if available to all firefighters and insurance pay if paid to all firefighters.

Examples of items on which are not part of total gross salary are: clothing allowance, car expense, unscheduled overtime, and reimbursement for out of pocket expenses and vacation and sick leave buy back paid upon termination of retirement.

IF THERE ARE QUESTIONS ON ANY PAYROLL ITEMS TO BE INCLUDED AS PART OF TOTAL GROSS SALARY, CONTACT THE SYSTEM FOR ASSISTANCE.

26. What if a paid firefighter terminates employment and requests a refund of contributions?

A. Refund of Contribution Application (Form 12) must be submitted to the System.

B. Refunds will not be paid until sixty (60) days after termination to ensure that all contributions paid by the firefighter are received by the System. Contributions paid by the member beginning January 1, 1989 have not had taxes withheld. Unless a member wishes to rollover these moneys, to a qualified plan, the System is required to withhold twenty percent (20%) for federal income taxes.

C. Complete a Notification of Termination from the Fire Department (Form 8) when a member terminates from your department

D. If the firefighter has served ten (10) or more years, the member may wish to elect a vested benefit rather than a refund of contributions.

27. What if a paid firefighter leaves a participating municipality and goes to work for another participating municipality?

The following must be submitted to the state office:

A. A Notice of Termination from the Fire Department (Form 8) must be submitted by the participating municipality the firefighter leaves.

B. Application for Entrance (Form 13) must be submitted by the participating municipality the firefighter is joining.

28. What if a paid firefighter terminates employment with a participating municipality, receives a refund of contributions, and then returns to work for another or the previous participating municipality?

Provided the firefighter is not over forty-five (45) years of age and pursuant to O.S. 11 §49-117.1, in order for the previous service credit to count towards a normal retirement date, all contributions must be paid back to the System plus ten percent (10%) annual interest.

Retirement for a paid firefighter

29. What if a paid firefighter wishes to retire after twenty (20) years of service?

The following information must be submitted to the System:

A. Application for Retirement (Form 1)

B. Minutes from the local board where the local board exists.

C. Request for Federal and State Income Tax Withholding (Form 6)

30. How is the pension amount determined for a paid firefighter with twenty (20) years of service?

A paid firefighter with twenty (20) years of credited service is entitled to fifty percent (50%) or two and one-half percent (2 1/2%) of the firefighter's final average salary. "Final average salary" means the

highest thirty (30) consecutive months of the last sixty (60) months of credited service. Total gross salary shall include the items as listed in Example 1 as stated in Question 24 of this handbook.

31. How is the pension amount determined if a paid firefighter has served more than twenty (20) years?

If a paid firefighter serves more than twenty (20) years, an additional two and one-half percent (2 1/2%) will be paid for each year of credited service not to exceed thirty (30) years or seventy-five percent (75%). Additional months served will also be included in calculating pensions with any portion of month over fifteen (15) days being counted a full month.

Example:	22 years 9	55.00%	
	mos. 16	1.87%	
	days Total	<u>.20%</u>	
		57.07%	(Firefighter receives 57.07% of final average salary)

Below is a breakdown of percentages by years and months to be used in calculating additional service time over twenty (20) years:

<u>YEARS</u>	<u>%</u>	<u>MONTHS</u>	<u>%</u>
20	50.0	1	0.20
21	52.5	2	0.41
22	55.0	3	0.62
23	57.5	4	0.83
24	60.0	5	1.04
25	62.5	6	1.25
26	65.0	7	1.45
27	67.5	8	1.66
28	70.0	9	1.87
29	72.5	10	2.08
30	75.0	11	2.29

Disability retirement for a paid firefighter?

32. What if a paid firefighter wishes to apply for a disability in line of duty pension?

The following information must be submitted to the System:

- A. Application for Disability Pension (Form 2)
- B. Minutes from the local board where the local board exists
- C. Medical statements from two (2) physicians certifying the nature of the disability and that the firefighter can no longer perform his duties as a firefighter.
- D. Any proof of injury reports that are available
- E. Request for Federal and State Income Tax Withholding (Form 6)

33. How is a disability in line of duty pension calculated for a paid firefighter?

A disability in line of duty pension calculation is one one-half (1/2) of the firefighter's average monthly salary which, was paid to the firefighter during the last thirty (30) months of service. If the applicant has served over twenty (20) years, the pension is calculated the same as a regular service penSIOn.

34. Who is responsible for the payment of the physician's examinations for disability determination?

All disability applications require two (2) physician's statements certifying the disability and that the applicant can no longer perform the duties of a firefighter. The applicant or the participating municipality when applying on behalf of the member is responsible for the physician's statements. If only one physician statement is presented or there is a difference in the opinion of the two (2) physician's statements, the State Board will be responsible for any additional examinations if needed.

35. What if a paid firefighter wishes to apply for a disability not in line of duty pension?

The following information must be submitted to the System:

- A. Application for Disability Pension (Form 2)
- B. Minutes from the local board where the local board exists
- C. Two physician's statements certifying the disability and that the applicant can no longer perform the duties of a firefighter
- D. Request for Federal and State Income Tax Withholding (Form 6)

36. How is a disability not in line of duty pension calculated for a paid firefighter?

A disability not in line of duty pension calculation is one-half (1/2) of the average monthly salary which, was paid to the firefighter during the last sixty (60) months of service if the firefighter has less than twenty (20) years of credited service. A firefighter with over twenty (20) years of service may not make an application for a disability not in line of duty pension.

Volunteer Firefighters

37. What is the size limitation of a volunteer fire department?

Any municipality having a volunteer fire department with less than three (3) paid firefighters shall limit, by ordinance, the number of volunteer firefighters to not less than twelve (12) or more than twenty-five (25) members for municipalities with a population of more than one thousand five hundred (1,500); or not less than eight (8) or more than twenty-five (25) members for municipalities with a population of eight hundred (800) to one thousand five hundred (1500); or not less than six (6) or more than twenty-five (25) members for municipalities with a population of less than eight hundred (800).

Any municipality having a combination fire department with more than two (2) paid firefighters and at least one volunteer firefighter shall not have more than twenty-five (25) volunteer firefighters. However a combination fire department that had more than twenty-five (25) volunteer firefighters on

June 1, 2003, shall be limited in the future to the number of volunteer firefighters enrolled on June 1, 2003.

County Fire Departments shall limit the size of the volunteer fire department to not less than six (6) or more than twenty (20) members per station.

The volunteer limit does not apply to Fire Protection Districts.

38. How is a volunteer firefighter enrolled as a member in the System and will a volunteer firefighter have to complete a performance/agility test or a physical examination before entering the System?

A. Entrance Application Form (Form 13) must be completed and signed by the applicant and the fire chief and returned to the System as soon as possible. **DO NOT WAIT UNTIL A PROBATION PERIOD IS COMPLETED TO SEND THE FORM 13 AS THE FORM 13 IS THE PRIMARY EVIDENCE OF ENTRY INTO THE SYSTEM.** To delay submission of the Form 13 can result in a later entry date for the firefighter and could alter the date the member would qualify for retirement benefits.

B. When a volunteer is terminated from a department (INCLUDING TERMINATION AT THE END OF A PROBATION PERIOD) notify the System by letter or use the Termination Form (Form 8), giving the firefighter's social security number, termination date and reason for termination.

C. The State Board does not require a performance/agility test or a physical examination for a volunteer firefighter.

39. How are volunteer firefighter contributions determined?

State statute establishes volunteer contributions which are due July 1 of each year. The System will provide a pre-list showing all volunteer firefighter's which, will be mailed to each participating municipality sometime in June. Sixty dollars (\$60.00) will be due for each volunteer member. Volunteer cities with income of less than twenty-five thousand dollars (\$25,000.00) to its General Fund during a fiscal year are exempt from paying contributions. This exemption is based on annual income from the General Fund and not the cash balance at the end of the year. An exemption form is required each year and may be obtained from the System.

40. What form is used to report volunteer contributions?

The System will mail a Pre-List/Invoice sometime in June of each year.

41. How do I complete the form for volunteer contributions?

A. List any new volunteers that have been added during the year or are not printed on the form. List their name, social security number and hire date and complete an Entrance Application Form (Form 13) for each new volunteer added.

B. Line through any volunteer who has been terminated, and list the termination date and reason for the termination.

- C. Return the list, along with a check made payable to the Oklahoma Firefighters Pension and Retirement System, to the System.

Retirement for a volunteer firefighter

42. What if a volunteer firefighter wishes to retire after twenty (20) years of service?

The following must be submitted to the System:

- A. Application for Retirement (Form 1)
- B. Minutes from the local board where a local board exists
- C. Request for Federal and State Income Tax Withholding (Form 6)

43. How is a pension benefit for a volunteer firefighter calculated?

The monthly pension benefit for a volunteer firefighter shall be in the amount retired volunteers are receiving at the time the volunteer begins to receive a pension for each year of credited service not to exceed thirty (30) years. In determining the number of years of credited service, a fractional year of six (6) months or more shall be counted as one full year (as long as the firefighter has completed the initial twenty (20) years of service) and a fractional year of less than six (6) months shall not be counted in such determination. Retired volunteer firefighters shall receive a pension of not less than that which retired volunteer firefighters were receiving on June 30, 1985. The amount of the volunteer firefighter pension is subject to change each year, so it is imperative that participating municipalities check with the state office to determine the volunteer benefit amount. The majority of volunteer firefighters will receive a monthly pension benefit as indicated in the following schedule:

1 year	\$ 6.96	16 years	\$ 111.36
2 years	13.92	17 years	118.32
3 years	20.88	18 years	125.28
4 years	27.84	19 years	132.24
5 years	34.80	20 years	139.20
6 years	41.76	21 years	146.16
7 years	48.72	22 years	153.12
8 years	55.68	23 years	160.08
9 years	62.64	24 years	167.04
10 years	69.60	25 years	174.00
11 years	76.56	26 years	180.96
12 years	83.52	27 years	187.92
13 years	90.48	28 years	194.88
14 years	97.44	29 years	201.84
15 years	104.40	30 years	208.80

Disability Retirement for a volunteer firefighter

44. What if a volunteer firefighter wishes to apply for a disability in line of duty pension?

The following information must be submitted to the System:

- A. Application for Disability Pension (Form 2)
- B. Minutes from the local board where the local board exists
- C. Two (2) physician's statements certifying the disability and that the applicant can no longer perform the duties of a firefighter.
- D. Proof of injury reports if available
- E. Request for Federal and State Income Tax Withholding (Form 6)

45. How is a disability in line of duty pension calculated for a volunteer firefighter?

A volunteer firefighter who receives a disability in line of duty pension shall be paid the same amount a twenty (20) year volunteer service pension unless the firefighter has more than twenty (20) years of credited service at which time the service years as listed in Question 42 would apply.

46. What if a volunteer firefighter wishes to apply for a disability not in line of duty pension?

The following information must be submitted to the System:

- A. Application for Disability Pension (Form 2)
- B. Minutes of the local board where the local board exists
- C. Two physician's statements certifying the disability and that the applicant can no longer perform the duties of a firefighter
- D. Request for Federal and State Income Tax Withholding (Form 6)

47. How is a disability not in line of duty pension calculated for a volunteer firefighter?

A volunteer firefighter who receives a disability not in line of duty pension will be paid \$6.37 for each year the volunteer was a member of the participating municipality if the firefighter has served less than twenty (20) years.

Credited Service

48. What is credited service?

Credited service is the period of time used to determine the eligibility for retirement benefits to be received by the member. It shall consist of the period during which the member participated in the system or the predecessor municipal systems as an active employee in an eligible membership classification, plus any service prior to the establishment of the predecessor municipal systems which was credited under the predecessor municipal systems; provided however, "credited service" for members from a fire protection district shall not begin accruing before July 1, 1982.

49. Can a paid firefighter receive service credit accumulated while a member of another state retirement system?

A paid member may receive up to five (5) years of credited service accumulated while a member of the Oklahoma Police Pension and Retirement System, Oklahoma Law Enforcement Retirement System, Teacher's Retirement System or the Oklahoma Public Employee Retirement System. This credit of service applies only if the member is not receiving or eligible to receive retirement credit or benefits from these systems. The transferred service will be added after the member reaches a normal retirement

date. To receive the service credit contributions must be paid to the system. Contributions will be determined by the actuarial assumptions adopted by the State Board as provided in Title 11, §49-117.3 of Oklahoma State Statute. The State Board may permit the member to pay the purchase price over a period not to exceed sixty (60) months through payroll deduction.

50. How does service in the armed forces affect a member's credited service?

Service in the armed forces is generally administered pursuant to Section 49-138 of Title 11 of the Oklahoma Statutes. As of February 5, 1997, the District Court of Oklahoma County allowed members who retired after June 29, 1981, to count up to five (5) years of military service towards a pension benefit calculation. See the questions under **Military Service** for a more thorough discussion.

Vested Benefit

51. What is a vested benefit?

A member who participates in the System is not entitled to a pension benefit unless the member has completed ten (10) years of credited service, except for an in line of duty disability benefit. A member with ten (10) or more years of credited service who terminates service with less than twenty (20) years of credited service may elect to apply for a vested benefit. A vested benefit entitles the member receive a monthly retirement annuity which, would commence on the date the member reaches fifty (50) years of age or the date the member would have completed twenty (20) years of uninterrupted employment, whichever is later.

52. When may a member elect a vested benefit?

If the member has completed ten (10) years of credited service at the date of termination, the member may elect a vested benefit in lieu of a refund of the contributions paid by the member while an active firefighter. The five thousand dollar (\$5,000.00) death benefit will not apply to a member who elects a vested benefit.

53. How is a vested benefit calculated?

A vested benefit for a paid member is calculated by using two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of credited service. Example: if a member has served twelve (12) years and six (6) months at the time of termination, the member would be entitled to 31.25% of his final average salary at age fifty (50) or on the date the member would have completed twenty (20) years of service, whichever is later.

A vested benefit for a volunteer member is calculated by multiplying \$ 6.37 for each year of service. Example: if a volunteer member has served fifteen (15) years at the time of termination, the member would be entitled to a vested benefit of \$95.55 at age fifty (50) or on the date the member would have completed twenty (20) years of service, whichever is later. Remember, volunteer amounts may change each year so you should contact the pension office to determine the amount a volunteer is eligible to receive.

54. What must be submitted to the System when a member elects a vested benefit?

- A. Application for Vested Benefit (Form 18)
- B. Minutes from the local board where a local board exists
- C. Copy of birth certificate

Member deaths and beneficiaries

55. What if a firefighter dies prior to being eligible to receive vested pension benefits?

If a terminated employee (paid or volunteer) has elected a vested benefit and dies prior to being eligible to receive the benefit, the member's spouse or qualifying child shall be entitled to the member's vested benefit on the date the deceased member would have been eligible to receive the benefit. An application must be made by the beneficiary to qualify to receive the vested benefit. See Section 49-101 (b) and 49-117.1 of Title 11 of Oklahoma Statute.

56. What is a retired or an active member dies and the surviving spouse wishes to apply for a continuation of the member's pension benefit?

The following must be submitted to the System:

- A. Application for Surviving Spouse for Pension (Form 3)
- B. Minutes from the local board where a local board exists
- C. Copy of death certificate
- D. Copy of marriage certificate or proof of marriage
- E. Request for Federal and State Income Tax Withholding (Form 6)

57. What if a deceased member has no surviving spouse but does have a qualified minor child?

The following must be submitted to the System:

- A. Application for Child's Continuation of Pension (Form 4)
- B. Minutes from the local board where a local board exists
- C. Copy of death certificate
- D. Copy of birth certificate
- E. Guardian must provide proof of guardianship
- F. Request for Federal and State Income Tax Withholding (Form 6)

To continue monthly benefits on a child who has reached eighteen (18) years of age, the pension office requires verification that the child is emolled full-time in an accredited school of learning. A letter is required each semester until the child reaches twenty-two (22) years of age. **If** the child marries the benefit will cease.

58. What is the death benefit and who is entitled to the benefit?

Pursuant to Title 11, Section 49-113.2 of Oklahoma Statutes, upon the death of an active or retired member, the pension system shall pay to the eligible spouse or designated recipient, or if there is no eligible spouse or designated recipient, to the member's estate, the sum of five thousand dollars

(\$5,000.00) as a death benefit. Members who have elected a vested benefit are not eligible to receive the death benefit. The law authorizing the death benefit went into effect on July 21, 1987 and does not apply to deaths prior to that date.

The death benefit exclusion under Internal Revenue Code 101 (b) has been repealed for payments with respect to individuals dying after August 20, 1996. The death benefit is now taxable income to the beneficiary. If the death benefit is paid to the surviving spouse, a twenty percent (20%) tax is automatically withheld from the distribution. The benefit can be rolled over to an IRA to avoid the twenty percent (20%) tax or the surviving spouse can elect a post death disclaimer to have the benefit paid directly to a funeral home by filing a qualified disclaimer with the system. If the death benefit is paid to an individual other than the member's spouse, a ten percent (10%) tax is withheld. However, the beneficiary other than the spouse can elect not to have taxes withheld at the time of the distribution. At year-end, the beneficiary would off set the taxes by any amount already paid.

59. What is the definition of a beneficiary?

"Beneficiary" means a member's surviving spouse, child or children at the time of the member's death. The surviving spouse must have been married to the member for the thirty (30) continuous months preceding the member's death, provided a surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for a participating municipality, shall not be subject to the marriage limitation for survivor benefits. If there is no eligible spouse, a surviving child of a member shall be a beneficiary until the child marries or reaches the age of eighteen (18) or twenty-two (22) years of age if the child is enrolled full-time and regularly attending a public or private school or any institution of higher learning. Any child adopted by the member after the member's retirement shall be a beneficiary only if the child is adopted by the member for the thirty (30) continuous months preceding the member's death. Any child who is adopted by a member after the member's retirement and such member dies accidentally or as a consequence of the performance of the member's duty as a firefighter shall not be subject to the thirty (30) month adoption requirement.

Oldahoma Firefigh.ters Deferred Option Plan (Plan B) - Front Drop

60. What is the Oklahoma Firefighters Deferred Option Plan Forward Drop?

All active firefighters with twenty (20) or more years of credited service are given an option to elect to participate in the deferred option plan rather than elect normal retirement. This option is referred to as "Plan B Forward Drop"

After election to participate in Plan **B**, a member's normal retirement benefit is calculated as of the effective date of the Plan B election. The System defers the payment of the pension benefit to the member until the member actually terminates employment. The member shall terminate employment after five (5) years of the effective date of the Plan B election. The deferred pension benefit is deposited into the electing member's Plan B account. The member remains employed as an active firefighter but is no longer required to pay contributions to the system. The employer's contributions will continue to the system and member's Plan B account is credited with one-half (1/2) of the employer's contribution. Participation in Plan B must begin on the first day of a month.

The Plan B account will earn interest at a rate of two (2) percentage points below the annual rate of return to the System's investment portfolio, but no less than the actuarial assumed interest rate which is

currently seven and one-half (7 1/2%). The interest is simple interest and will be credited on the ending June 30 balance.

For volunteer firefighters, the amount deferred is based upon years of credited service. The current monthly benefit amount being paid to a volunteer with twenty (20) years of credited service is \$139.20 per month. Should a volunteer member elect to participate in Plan B, the pension amount would be deposited into the member's Plan B account for a period of not more than five (5) years. Interest is paid on the account in the same manner as for a paid firefighter.

Upon termination from the participating municipality, a Plan B participant starts receiving a normal monthly pension benefits. The amount accumulated in the Plan B account is paid to the member either in a lump sum payment, quarterly or yearly payments, or the member may elect to have the pension system retain the account balance until a later date.

The annual interest earnings to Plan B participants is determined from the System's investment portfolio on June 30 of each year. The determined annual interest rate is applied on a pro rata account balance for the fiscal year the rate is established. If a participant withdraws all or a portion of the account balance prior to June 30 of a given plan year, the participant receives, at the time of withdrawal, interest earnings on the withdrawn amount equal to the actuarial assumed interest rate as certified by the system's actuary in the yearly evaluation report on a pro rata basis. If the annual interest earnings to Plan B participants exceeds the annual assumed interest rate, a participant who withdraws all or a portion of the account balance prior to June 30 of said plan year, shall receive additional interest earnings equal to the difference between the minimum actuarial interest rate and the calculated interest rate on a pro rata basis.

61. Are taxes withheld from Plan B distributions?

If a member receives a "distribution" from Plan B, twenty percent (20%) will be withheld from the taxable portion of the distribution unless the member "directly rolls over" the benefit into an Individual Retirement Account (IRA) or another eligible retirement plan that accepts rollovers. If your plan benefit is paid directly to the member (check written in the member's name or direct deposited to the member's bank account) instead of directly rolled over, twenty percent (20%) of the taxable portion of the distribution will be withheld for taxes and sent to the IRS. Accordingly, the member will only receive eighty percent (80%) of the taxable portion of the total distribution.

62. Is there a tax penalty for early Plan B distributions?

If a member receives an early distribution from Plan B, the distribution is subject to an additional ten percent (10%) excise tax over and above any income tax owed. A member will not be subject to the additional ten percent (10%) excise tax for early distribution if the member is at least fiftyfive (55) years of age or will turn fifty-five (55) in the calendar year the member separates from active service or if the member is fifty-nine and one-half (59 1/2) years of age or older when the member receives the distribution. The ten percent (10%) excise tax penalty does not apply however, if an early distribution is made as a result of the member's death or disability. The disability exemption is qualified as follows:

1. The individual must be unable to engage in any substantial gainful activity due to a medically determinable physical or mental impairment; and

2. The disability must be expected to result in death or be long continued and an indefinite duration; and
3. The individual must furnish proof of the disability in the form and manner required by the IRS.

The ten percent (10%) excise tax penalty also does not apply if the payment is part of a series of substantially equal periodic payments (not received less frequently than on an annual basis) made over the life expectancy of the firefighter for a period of no less than five (5) years.

63. What if the participant decides to change the withdrawal amount once an annuity withdrawal has commenced?

If the amount of periodic payments is modified (other than by reason of death or disability) before the later of (1) the end of the five (5) year period beginning with the date of the first payment or (2) the participant's attainment of age fifty-nine and one-half (59½), the excise tax that would have been imposed on all payments (including prior year payments), plus interest, is imposed in the year in which the modification occurs.

A member may contact the System for assistance in the calculation of an annuity from the Plan B option account. **Members are strongly urged to confer with a qualified tax advisor prior to making a decision on the type of benefit payment to be received.**

64. How does a member sign up for Plan B?

Should a member decide to participate in Plan B, it is recommended that the member contact the State Office or if possible, come by the System's in Oklahoma City to discuss this option in further detail. It is strongly recommended that a member consult with a qualified tax advisor before **making** a decision to participate in Plan B. Once the decision is made to enroll in Plan B, a Deferred Retirement Option Plan Form (Fonn 7) must be completed by the member and submitted to the System.

65. How long does a member have to draw "Plan B" money out of the system?

Until a Plan B participant attains age seventy and one-half (70½) years, there are no limitations on maintaining account balances or required withdrawals related to Plan B. Once a member attains age seventy and one-half (70½), the minimum IRS distribution rules apply.

66. When does a Plan B participant attain age seventy and one-half (70½) for purposes of the required minimum distribution rule?

A member attains age seventy and one-half (70½) six months after the member reaches the age of seventy (70) years.

67. What is the absolute maximum date a member is required to receive a distribution?

On April 1, of the calendar year following the calendar year in which the member reaches the age of seventy and one-half (70 ½). However, the member will be required to receive two (2) years of withdrawals in the one year.

68. Can a member revoke the Plan B election and commence accruing additional annuity benefits?

There is no provision for revoking a Plan B election. State statute requires a member to terminate employment with all participating municipalities as a firefighter at the conclusion of said member's participation in Plan B.

69. Is there a change in determining a pension amount if a member sustains an in line of duty disability while participating in Plan B?

The answer is no?

70. What is the minimum amount to be withdrawn under the required minimum distribution rule?

Minimum distributions are based on IRS supplied life expectancy tables. For the first year of required distribution, the required minimum amount to be distributed normally ranges from 6.25% to 4.3% of the account balance.

Oklahoma Firefighters Deferred Option Plan - Back Drop

71. What is the Oklahoma Firefighters Deferred Option Plan Back Drop?

All active firefighters with twenty (20) or more years of credited service have the option to participate in the deferred option plan reverse drop rather than elect normal retirement. This option is referred to as "Plan B Back Drop".

A member who elects to participate in the back drop shall establish a back drop participation date, which must be the first day of a month, and shall terminate employment with all participating municipalities as a firefighter and shall begin receiving a monthly benefit check from the System.

The monthly benefit shall be determined based on the member's earlier attained credited service (credited service earned as of the back drop date. The **back drop date is your normal retirement date or the date five (5) years before you elected to participate in the back drop, whichever is later.**

Upon the member's commencement of participation in the back drop, the member shall receive as a credit of the member's deferred benefit balance from the back drop as follows:

- (1) an amount equal to the accumulated contributions the member made to the System from the member's back drop date to the member's termination date with interest based on how the benefit would have accumulated on a compound annual basis as if the member had

participated in the Deferred Option Plan Forward Drop from the member's back drop date to the member's termination date.

- (2) an amount equal to all monthly retirement benefits that would have been payable had the member elected to cease employment on the back drop date and receive a service retirement from the back drop date to the termination date with applicable cost of living adjustments and with interest based on how the benefit would have accumulated on a compound annual basis as if the member had participated in the Deferred Option Plan Forward Drop from the member's back drop date to the member's termination date.
- (3) an amount equal to one-half (1/2) of the employer contributions from the back drop date to the termination date, with interest based upon how the benefit would have accumulated on a compound basis as if the member had participated in the Deferred Option Plan Forward Drop from the member's back drop date to the member's termination date.

The member must understand that on the member's back drop date, the member's retirement benefit is frozen and at will no time be allowed to increase due to additional years of service, salary or other promotional increases.

If a member is reemployed by a participating municipality in a position not covered by the System, the member shall continue to receive in-service distributions of the member's accrued monthly benefit from the System.

At the time of member's termination, the member shall select the method of payment as set out in the Payment Election Form under the back drop provision provided by the System. In the event of the member's death while maintaining an account balance in the back drop, the System will pay to the designated recipient or recipients, or, if there is no designated recipient or if the designated recipient predeceases the member, to the member's estate, a lump sum payment equal to the account balance. If the designated recipient is the member's surviving spouse, the surviving spouse will receive his or her portion of the account balance in a lump sum or in the same manner as was applicable to the member.

Tax withholdings and tax penalties for early distributions are the same as a member participating in the forward drop.

Retired Firefighters

72. Is group insurance available for paid and volunteer members at retirement?

Effective January 1, 2002 State Group Health Insurance is no longer available for paid and volunteer members upon retirement. Members who are currently with the state plan will be allowed to stay on the plan.

An option to consider is to continue the group insurance coverage provided by the participating municipality. Section 23-108(B) of Title 11 of the Oklahoma Statutes requires cities that provide health insurance to city employees and their dependents to offer the same coverage to retired employees and their dependents. Should a retiree or spouse not qualify for social security, a Medicare supplement can be obtained for an additional cost through the Social Security Office. Be aware that **COBRA** Insurance provides coverage for **only** a short period **of** time.

73. How are retirement benefits increased?

A. Cost of living increases can only be granted by the legislature.

B. For members who had completed twenty (20) years of service on or before May 26, 1983, automatic escalator increases were reinstated by a Federal Court Order dated December 7, 1987.

74. How is the obligation to pay benefits verified by the State Office?

Every two (2) years, a verification form will be mailed to all retirees receiving benefits from the System. This form is used to verify current status, current addresses, social security numbers, guardians, etc. If you are aware of a death of a retiree for spouse, please contact the state office. The member is required to sign the form or unless Guardianship papers or a Durable Power of Attorney is on file with the System allowing another person to sign the document. This is also true regarding widows of retired members.

75. What benefit is paid upon the death of a retired member?

In the event the death of a retired member, the spouse is entitled to one hundred percent (100%) of the benefits providing that they were married for at least thirty (30) continuous months prior to the retiree's death. If there is no eligible spouse, unmarried children under the age of eighteen (18) or twenty-two (22) if the child is enrolled full-time and regularly attending a public or private school or institution of higher learning, will be eligible for benefits. Any child adopted by a member after the member's retirement shall be a beneficiary if the adoption occurred for the thirty (30) continuous months preceding the member's death. Any child adopted by a member after the member's retirement and if such member dies accidentally or as a consequence of the performance of the member's duty as a firefighter shall not be subject to the thirty (30) month adoption requirement. A permanent disability (mental or physical) must occur before a child reaches eighteen (18) years of age in order to receive lifetime benefits. The pension will cease when the above criteria is not met.

Oklahoma Firefighters Pension and Retirement Board of Trustees

76. What are the duties of the Oklahoma Firefighters Pension and Retirement Board of Trustees?

A. The board of trustees is responsible for the policies and rules for the general administration of the system, subject to the provisions of state law and properly promulgated rules.

B. The board of trustees establishes rules for the administration of the System and for the transaction of its business consistent with the law. The rules are made public pursuant to the Administrative Procedures Act.

C. All meeting of the board of trustees are open to the public and its proceedings are recorded.

D. All decisions of the board of trustees as to questions of fact are final and conclusive on all persons except for the right of review as provided by law and except for fraud or such gross mistake of fact as to have effect equivalent to fraud.

E. The board of trustees takes all necessary action upon applications for pension benefits, disability benefits, survivor benefits, death benefits, entrance into the system and refunds of contributions.

77. How is the Oklahoma Firefighters Pension and Retirement Board of Trustees organized?

The board of trustees is composed of thirteen members who are appointed as follows:

- Oklahoma State Firefighters Association Executive Board (5 members)
- President of the Professional Firefighters of Oklahoma or a designee (1 member)
- President of the Oklahoma Retired Firefighters Association or a designee (1 member)
- Speaker of the House of Representatives Appointee (1 member)
- President Pro Tempore of the Senate Appointee (1 member)
- Oklahoma Municipal League Appointees (2 members)
- State Insurance Commissioner or a designee (1 member)
- Director of the Office of State Finance or a designee (1 member)

78. When do the Oklahoma Firefighters Pension and Retirement Board of Trustees meet?

The board of trustees meets, in regular session, every third Friday of each month unless otherwise scheduled. Members are advised to call the System for the time and place of each meeting. All meetings of the board of are open to the public. In order to place an item on the agenda, all necessary information must be submitted to the System by the Friday preceding the monthly meeting.

Scheduled Board Meeting Dates for calendar year 2006 and first half of 2007 are as follows:

January 20, 2006	July 21, 2006	January 19, 2007
February 17, 2006	August 18, 2006	February 16,2007
March 17, 2006	September 15,2006	March 16, 2007
April 21, 2006	October 20, 2006	April 20, 2007
May 19,2006 June 16, 2006	November 17,2006	May 18,2007 June 15,2007
	December 15, 2006	

Legal rights of firefighters and other information

79. Are the benefits provided by the Oklahoma Firefighters Pension and Retirement System guaranteed?

Attorney General Opinion No. 96-21 provides that the Legislature has obligated the state to actuarially maintain the funding of its public retirement plans. The state is required to fund the unfunded liability of its public retirement systems to a level of "actuarial soundness". Should the state fail to fund any of its public retirement systems, such failure would constitute an impairment of the contractual rights between the state and the public employee members of the affected systems. The state has a legal obligation to use all resources available in an effort to fund an insolvent state retirement plan in order to fulfill its duties to its vested public employees. This obligation cannot be abrogated by the state unless doing so would cause the State of Oklahoma to become insolvent.

80. Can pension money be used for other purposes?

Section 12 of Article XXIII of the Constitution reads in part as follows: "All proceeds, assets and income of a state retirement system shall be held in trust for the exclusive purpose of providing for benefits and shall not be encumbered for or diverted to any other purpose."

81. Can pension benefits provisions be changed?

While vested public employee's pension rights are contractually based, the Legislature may modify them if the modification is necessary and reasonable, and any disadvantages vested employees suffer through the changes are offset by the new advantages.

82. Can the Oklahoma Firefighters Pension and Retirement System be terminated?

Currently there are no statutory provisions for terminating the System, but such provisions exist in other state retirement systems.

83. What happens to the Oklahoma Firefighters Pension and Retirement System's assets if the plan is terminated?

Assets would have to be committed to paying the existing vested rights of the plan participants.

84. How would mandatory Social Security inclusion affect the pension plan?

Social Security inclusion would have no effect on the existing plan, but inclusions into Social Security could bring about significant modifications to the plan.

Disability

85. What is meant by the term "Good of Service" as it relates to disability retirements?

The State Board is authorized to retire a member from active service if the member is unable to perform the duties of a firefighter and will not submit an application for disability retirement. The decision of the State Board is generally based on medical evidence.

86. Who determines if a member should return to work if a disability ceases to exist?

The State Board makes the determination to terminate disability benefits. The member department is required to return the firefighter to work only if the determination is made within two (2) years of the original disability award.

Modifications of pension benefits

87. Can a service pension be modified to a disability pension?

Service pensions can be modified to disability pensions if proper medical documentation is presented.

Military Service

MILITARY SERVICE CREDIT IS ONLY USED IN DETERMINING THE AMOUNT OF YOUR BENEFIT. IT IS NOT USED TO DETERMINE ELIGIBILITY FOR SERVICE RETIREMENT, VESTING OR PARTICIPATION IN "PLAN B".

88. How does time served in the military prior to joining the fire department affect a member's credited service time?

Pursuant to Section 49-138 of Title 11 of the Oklahoma Statutes ("Section 49-138"), a member who retires or elects to participate in "Plan B" on or after July 1, 1998, shall be entitled to prior service credit, not to exceed five (5) years, for those periods of military service on active duty prior to membership in the System.

For purposes of determining service credit for military service prior to becoming a member, "military service" means service in the Armed Forces of the United States by honorably discharged persons during the following time periods, as reflected on such person's Defense Department Form 214:

- A. During the following periods, including the beginning and ending dates, and only for the periods served, from:
- (1) April 6, 1917, to November **11,1918**, commonly referred to as World War I;
 - (2) September 16, 1940, to December 7, 1941, as a member of the 45th Division;
 - (3) December 7, 1941, to December 31, 1946, commonly referred to as World War II;
 - (4) June 27, 1950, to January 31, 1955, commonly referred to as the Korean Conflict or the Korean War;
 - (5) February 28, 1961, to May 7, 1975, commonly referred to as the Vietnam era, except that for the period from February 28, 1961, to August 4, 1964, military service shall only include service in the Republic of Vietnam during that period; or
 - (6) August 1, 1990, to December 31, 1991, commonly referred to as the Gulf War, the Persian Gulf War, or Operation Desert Storm, but excluding any person who served on active duty for training only, unless discharged from such active duty for a service-connected disability.
- B. During a period of war or combat military operation other than a conflict, war or era listed in Part A, above, beginning on the date of Congressional authorization, Congressional resolution, or Executive Order of the President of the United States, for the use of the Armed Forces of the United States in a war or combat military operation, if such war or combat military operation lasted for a period of ninety (90) days or more, for a person who served, and only for the period served, in the area of responsibility of the war or combat military operation, but excluding a person who served on active duty for training only, unless discharged from such active duty for a service-connected disability,

and provided that the burden of proof of military service during this period shall be with the member, who must present appropriate documentation establishing such service.

A member eligible for service credit for military service prior to membership shall include (i) only those persons who shall have served during the times or in the areas prescribed above, and only if such person provides appropriate documentation in such time and manner as required by the System to establish such military service; and (ii) for purposes of Part A(5)(a), above, those persons who were awarded service medals, as authorized by the United States Department of Defense as reflected in the veteran's Defense Department Form 214, related to the Vietnam Conflict for service prior to August 5, 1964.

The above shall include military retirees, whose retirement was based only on active service, that have been rated as having twenty percent (20%) or greater service-connected disability by the Veterans Administration or the Armed Forces of the United States.

The above shall not apply to any person who shall have served on active duty for training purposes only unless discharged from active duty for a service-connected disability.

Credited service received pursuant to Section 49-138 shall be used in determining the member's retirement benefit but shall not be used in determining years of service for retirement, vesting purposes or eligibility for participation in "Plan B." For a member hired on or after July 1, 2003, if the military service credit authorized by Section 49-138 is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other Oklahoma retirement system.

An Application for Pre-employment Military Service Credit is included in this Pension Handbook for use by members who want to apply for credited service under the System for service in the military prior to joining the fire department.

89. Does the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) provide any pension rights for time served in the military prior to joining the fire department?

USERRA provides rights to a member reemployed by a fire department of a participating municipality generally within ninety (90) days after the completion of the qualified military service in the uniformed services of the United States. USERRA does not provide rights regarding service in the military prior to the member's employment by a fire department of a participating municipality.

90. How does time served in the military after joining the fire department affect a member's credited service time?

Pursuant to Section 49-138 of Title 11 of the Oklahoma Statutes ("Section 49-138"), any firefighter who is now serving or may hereafter serve in the US Armed Forces, whether voluntary or involuntary, who was a member of a participating municipality at the time of entering such service, shall be entitled to have the whole time applied towards a service pension provided that the municipality contributions are continued during the member's service in the armed forces. A member shall not receive such service credit if the member served on active duty (including initial active duty) for training purposes only and/or inactive duty training. However, a member who served on active duty (including initial active duty) for training purposes only and/or inactive duty training is covered under USERRA (see Questions 90 through 98).

A member who is eligible for such service credit but who volunteered for military or naval service for a period not to exceed five (5) years shall be entitled to such service credit for the full period of such military service or enlistment; however, only one such period of voluntary service will be considered. If a member reenlists, unless otherwise required by law, the member is not entitled to additional credited service under Section 49-138, except as required under USERRA (see Questions 90 through 98).

If a member dies during the period of service or enlistment in the US Armed Forces, the surviving spouse or children will not be entitled to any additional credited service under Section 49-138.

Credited service received pursuant to Section 49-138 (other than service that qualifies for USERRA, as discussed in Questions 90 through 96), shall be used in determining the member's retirement benefit but shall not be used in determining years of service for retirement, vesting purposes or eligibility for participation in "Plan B." If the military service qualifies under USERRA (as discussed in Questions 90 through 98), however, it shall be used in determining years of service for vesting purposes. Alternatively, a member may purchase years of service for retirement and eligibility for participation in Plan B as discussed in Question 98.

For a member hired on or after July 1, 2003, if the military service credit authorized by Section 49-138 is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other Oklahoma retirement system.

Notwithstanding anything herein to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with USERRA and Section 414(u) of the Internal Revenue Code of 1986 (Code) as discussed in this Military Service question and answer section. Pursuant to Title 11 of the Oklahoma Statutes, the provisions of USERRA relate to that military service for which service credit is not otherwise provided under Section 49-138 including members who serve in active duty (including initial active duty) for training purposes and/or inactive duty training.

91. What are the pension rights under USERRA of a member who is absent from work due to qualified military service which is not otherwise credited pursuant to Section 49-138?

In addition to the right to credited service pursuant to Section 49-138 of Title 11 of the Oklahoma Statutes ("Section 49-138"), a member who is absent from work due to qualified military service (for which credit is not otherwise provided under Section 49-138), may take advantage of USERRA and Code Section 414(u). USERRA, as enacted October 13, 1994 under Title 38 of the United States Code, Chapter 43, Sections 4301-4333, requires employers to provide certain reemployment and benefit rights to employees who take a leave for "qualified military service." "Qualified military service" means any service in the uniformed services, which is defined in the Question below. The law is enforced by the United States Department of Labor through the Veteran's Employment and Training Service ("VETS").

In accordance with USERRA, a member reemployed by a fire department of a participating municipality generally within ninety (90) days after the completion of qualified military service in the uniformed services of the United States, within the meaning of Code Section 414(u)(5), will be treated as not having incurred a break in service with the participating municipality. The Oklahoma Statutes provide that notwithstanding any provision to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u).

Under USERRA, reemployment rights extend to persons who have been absent from a position of employment because of service in the uniformed services including a member who is absent from work due to active duty (including initial active duty) for training and/or inactive duty training, as discussed in Question 91.

Two checklists providing information regarding qualified military service leave (USERRA Service Member Checklist and USERRA Employer Obligations Checklist) are available at the end of this Pension Handbook for use by members as a step-by-step administrative guide to requesting military service leave under USERRA.

92. What is "service in the uniformed services" for purposes of USERRA?

The term "service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority, which includes:

- A. Active duty
- B. Active duty for training
- C. Initial active duty for training
- D. Inactive duty training
- E. Full-time National Guard duty
- F. Absence from work for an examination to determine a person's fitness for any of the above types of duty
- G. Funeral honors duty performed by National Guard or reserve members
- H. Duty performed by intermittent disaster response personnel for the Public Health Service, and approved training to prepare for such service

For purposes of military service credit under USERRA, "uniformed services" consists of the following:

- A. Army, Navy, Marine Corps, Air Force, or Coast Guard
- B. Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve
- C. Army National Guard or Air National Guard
- D. Commissioned Corps of the Public Health Service
- E. Any other category of persons designated by the President in time of war or emergency

93. What "service in the uniformed services" is protected by USERRA?

In accordance with USERRA, in order for reemployment rights to be extended to a member, the cumulative length of qualified military service that causes the member's absence from a position may not exceed five (5) years. Most types of military service are counted in the computation of the five (5) year limitation period. See the USERRA Service Member Checklist (Question 3) at the end of this Pension Handbook for a list of exceptions to the five (5)-year limitation period.

94. What military service is disqualified for purposes of USERRA?

The four circumstances when military service is disqualified are listed in the USERRA Service Member Checklist (Question 4).

95. What must a member do to assert rights under USERRA in advance of qualified military service?

USERRA requires the member who holds a firefighter position with a participating municipality to provide the participating municipality with advance notice of military service in either written or oral format. The USERRA Service Member Checklist (Question 2) at the end of this Pension Handbook sets forth the steps for a member to follow to give notice.

96. What must a participating municipality do to notify the System of a member's leave of absence due to qualified military service?

A Notice of Leave of Absence for Military Service is included at the end of this Pension Handbook for use by participating municipalities for their members who request military service leave after joining the fire department. The notice should include the date on which the military service leave is to officially begin based on the actual military orders and the last date that contributions were paid on the member's base salary. The notice should also indicate the member's anticipated use of any paid leave time (e.g., vacation days) during his/her military service leave.

The date listed on the military orders is the official date of the military service leave, regardless of any time taken for paid leave time during the military service leave. In accordance with USERRA, any person whose employment with the employer is interrupted by a period of service in the uniformed services will be permitted to use during such period of military service any paid leave time accrued by the person before the commencement of such service. See the USERRA Service Member Checklist and the USERRA Employer Obligations Checklist at the end of this Pension Handbook for more information.

97. What must a returning member do to assert rights under USERRA?

Pursuant to USERRA, a returning member, upon completion of a period of service in the uniformed services, must notify the participating municipality of his/her intent to return to the participating municipality and report to work within certain time periods. The deadlines for reporting to work are set forth in the USERRA Service Member Checklist (Question 5).

98. What must a participating municipality do to notify the System of a member's return from leave of absence due to qualified military service?

A Notice of Return from Leave of Absence for Military Service is included at the end of this Pension Handbook for use by participating municipalities for their members who are reemployed with the fire department after serving in the military. The System will provide a Notice to Member Reemployed after Military Service Leave upon receipt of the Notice of Return from Leave of Absence for Military Service from the participating municipality.

99. What must the member and the participating municipality pay in order for the member to receive the USERRA service credit?

While a member is on qualified military leave pursuant to USERRA, the participating municipality must continue to submit regularly scheduled contributions to the System on behalf of the member (i.e., the member's contributions) and the participating municipality (i.e., the municipality contributions) for any period of paid leave time. If the member is receiving intermittent pay during the qualified military service leave (such as for paid leave time), the participating municipality must continue to submit both the member and municipality contributions for the time that the member is

being paid. If the participating municipality is aware of any intermittent paid leave time that will be used while on qualified military leave, this information should be included in the member's Notice of Leave of Absence for Military Service form.

Each member reemployed pursuant to USERRA will be treated as not having incurred a break in service with the participating municipality. Vesting service continues during a member's qualified military service, and there is no forfeiture of benefits that have already been earned. Vesting service is defined as the period of service used to determine the eligibility for a vested benefit pursuant to Section 49-117.1 of Title 11 of the Oklahoma Statutes.

A member is entitled to credited service for purposes of benefit accrual, years of service for retirement eligibility and eligibility for participation in Plan B while on qualified military service leave only to the extent that such member makes up the member contributions that were missed because of the leave. Credited service for purposes of benefit accrual is service that is taken into account in the calculation of the member's "accrued retirement benefit" pursuant to Section 49-100.1 (15) of Title 11 of the Oklahoma Statutes. As a member makes up his/her member contributions, the participating municipality is required to pay its respective employer contributions for the period of time during which the member was on qualified military leave. The reemployed member has a period equal to three times the period of qualified military service time, but not greater than five years, to make up the contributions. If the member does not make up missed member contributions, credited service for purposes of benefit accrual, years of service for retirement eligibility or eligibility for participation in Plan B will not include the period while on qualified military service leave.

The administrative forms associated with the purchase of credited service are included at the end of this Pension Handbook for use by participating municipalities and members and are listed below:

- A. Service Credit Purchase Application (for Military Service Under USERRA) - for use by members purchasing credited service
- B. Historical Payroll Record for Military Service Leave (for Military Service Under USERRA) - for use by participating municipalities (must accompany the member's Service Credit Purchase Application)
- C. Military Service Payment Schedule for Participating Municipality (for Military Service Under USERRA) - for use by participating municipalities (must accompany the member's Service Credit Purchase Application)

Social Security

100. How does a government pension affect a firefighter's Social Security benefits?

If a firefighter worked in a job that was not covered under Social Security, the pension the firefighter gets based on that work may reduce the firefighter's Social Security benefits. The Social Security benefit can be reduced under one of two provisions.

One provision, called the windfall elimination provision (WEP), affects how a firefighter's Social Security retirement or disability benefits are figured if the firefighter also receives a pension from work not covered by Social Security. The formula used to figure the benefit amount is modified, giving the firefighter a lower Social Security benefit.

The other provision, called the government pension offset (GPO), applies only if a firefighter receives a government pension and is eligible for Social Security benefits as a spouse, widow(er), mother or father. Under this provision, the Social Security benefit may be reduced by two-thirds of the amount of the government pension.

For more information, you can contact the Social Security Administration directly or access their website at <http://www.ssa.gov>. A copy of a Notice Required under the Social Security Protection Act of 2004 describing the WEP and GPO is included at the end of this Pension Handbook.

Line of duty iniuries and death

101. How are pension rights applied to a member who is injured or killed while serving in a volunteer fire department?

Article 5, Section 42 of the State Constitution authorizes the pensioning of meritorious and disabled firefighters. The pension statute differentiates between line of duty and not in line of duty benefits.

102. How are line of duty and not in line of duty pension rights applied to a paid member who is injured or killed while serving in a volunteer fire department?

Final determination will be made by the State Board after a review of the facts, the action taken by the local board where a local board exists and recommendations by the Executive Director and the legal counsel of the State Board.

Important things to remember for clerks and fire chiefs

A. An individual is not covered under the pension system until the System receives an Application for Entrance Form (Form 13). Paid members must also have passed the required performance/agility test and physical examination.

B. Paid fire departments must send payroll contributions after each pay period ending date. Departments not submitting contributions within thirty (30) days from each payroll date will be charged a late fee of one and one-half percent (1 1/2%) interest each month.

C. Volunteer cities should budget for pension contributions, which are due July 1 of each year.

D. A paid firefighter is classified as one who is carried on the fire department payroll and who receives a salary which more than twice the amount of a minimum pension of a volunteer firefighter which is currently \$133.80 per month or \$3,211.20 on an annual basis. Any firefighter receiving more than this salary will need to complete the required performance/agility test and a physical examination. Contributions of eight percent (8%) for the firefighter and thirteen percent (13%) for the employer will need to be paid to the System.

E. No paid firefighter's pension shall be less than the minimum pension of a volunteer firefighter, regardless of earnings, with the exception of a disability not in line of duty pension.

F. Applications for in line of duty disabilities must physician's statements certifying the disability and that the firefighter can no longer perform their duty.

G. All pension applications must be acted upon by an existing local board before being submitted to the State Board for consideration. Minutes from the existing local board must be received with the application showing the action taken by roll call vote.

H. A member changing from volunteer to paid status must take the required performance/agility test and physical examination. However, a member who successfully completed a performance/agility test as a condition of becoming a volunteer firefighter is not required to repeat the test if the member is in the same fire department.

I. A city may not employ a paid firefighter until the State Board has approved the firefighter for entrance into the System.

J. The State Board has adopted NFPA 1582 as the physical standards to be met for entrance into the System as well as the required agility test.

K. There are no provisions in the statutes for a paid firefighter to convert to a volunteer firefighter and combine the time served towards a volunteer pension.

L. If a firefighter is off the payroll for a period of time and is not contributing to the pension system, that period of time will not count towards a retirement benefit.

M. A firefighter who terminates with ten (10) or more years but less than twenty (20) years of credited service may elect a vested benefit in lieu of a refund of contributions.

N. If a firefighter has received a refund of contributions and subsequently returns to work, the withdrawn contributions plus ten percent (10%) annual interest must be paid back to the System in order for that previous service time to count towards a normal retirement.

O. A valid marriage certificate or other proof of marriage is required before a continuation of a surviving spouse pension can be acted upon by the State Board.

P. Every two (2) years a personal information update form will be mailed to each member receiving a benefit. This form should be completed and returned to the System so that current member files may be updated.

Q. A volunteer firefighter who is appointed as a paid firefighter after May 15, 1992, may be allowed to credit no more than five (5) years of the volunteer time towards a twenty (20) years paid pension. Any additional volunteer time would be computed at one-twentieth of a volunteer pension for each additional volunteer year but the total combined time cannot exceed thirty (30) years.

R. Federal and state income tax **will be withheld** from a benefit check unless a Form 6 (Request for Federal and State Income Tax Withholding) is on file in the state office. A gross monthly benefit check of less than \$458.33 will not be subject to Oklahoma income tax withholding unless requested by the member.

S. I099R forms will be mailed from the System at the end of January each year directly to beneficiaries.

T. It is the responsibility of the clerk to notify the System of any changes regarding active and retired firefighters such as termination, mailing addresses, deaths of retirees or beneficiaries.

U. It is the responsibility of the fire chief to assist the clerk in obtaining necessary information concerning active and retired firefighters.

V. If a firefighter is single, the firefighter can designate a Trust for minor children to receive monthly benefits. Death benefits must be designated to the "Children's Trust" by completing a Death Benefit Recipient Form (Form 11). Designation of Plan B monies require a separate Form IIB.

**ADMINISTRATIVE RULES PERTAINING
TO THE
OKLAHOMA FIREFIGHTERS
PENSION AND RETIREMENT
SYSTEM**

RULES OF THE
OKLAHOMA FIREFIGHTERS PENSION AND RETIREMENT SYSTEM
Adopted Pursuant To The Oklahoma Administrative Procedures Act Title 75,
Sections 301-326 of the Oklahoma Statutes
Effective August 4, 2005

TITLE 270. OKLAHOMA FIREFIGHTERS PENSION AND RETIREMENT SYSTEM

Chapter	
1. Administrative Operations	270: 1-1-1
10. Firefighters Pension and Retirement Plan	270: 10-1-4

CHAPTER 1. ADMINSTRATIVE OPERATIONS

Section	
270:1-1-1. Purpose	
270:1-1-2. Description of organization	
270:1-1-3. Methods whereby the public may obtain information or make submissions or requests	
270: 1-1- Descriptions of forms and instructions [Revoked]	
4. 270:1- Hearing procedures	
1-5.	
[Authority: 11 O.S., Sections 49-100 through 49-143]	

[Source: Codified 12-31-91]

270:1-1-1. Purpose

This Chapter describes the organization and operation of the Oklahoma Firefighters Pension and Retirement System and State Board, as required by 75 O.S., Section 302. This Chapter describes the administrative operations of the System and State Board, and sets forth procedures available to the public, including hearing procedures, as required by 75 O.S., Sections 302, 305, and 307.

270: 1-1-2. Description of organization

(a) The System is a body corporate and an instrumentality of the State of Oklahoma, vested with the powers and duties specified in 11 O.S. Sections 49-100.1 through 49-143.3, and other such powers and duties necessary to carry out the purposes and intent of these provisions.

(b) The State Board shall be responsible for the operation, administration and management of the System, and has such powers and authority expressly conferred upon it by, or reasonably implied from the provisions of 11 O.S., Sections 49-100.1 through 49-143.3. The State Board is composed of thirteen (13) members appointed as follows:

- (1) Five (5) members shall be the Board of Trustees of the Oklahoma State Firefighters Association;
- (2) One member shall be the President of the Professional Firefighters of Oklahoma or his designee. The designee shall be a member of the Professional Firefighters of Oklahoma;
- (3) One member shall be the President of the Oklahoma State Retired Firefighters Association or his designee. The designee shall be a member of the Oklahoma State Retired Firefighters Association;
- (4) One member shall be appointed by the Speaker of the House of Representatives;

- (5) One member shall be appointed by the President Pro Tempore of the Senate;
- (6) Two (2) members shall be appointed by the President of the Oklahoma Municipal League; (7) One member shall be the State Insurance Commissioner or his designee;
- (8) One member shall be the Director of State Finance or his designee. (Refer to 75:251 (B)(2)(b) in APA and 10:10-5-12 in ARR.)

(c) The State Board shall appoint an Executive Director, who shall be the managing and administrative officer of the System:

- (1) The Executive Director shall perform the duties and services as may, from time to time, be requested or directed by the State Board, and who shall attend all regular meetings of the State Board.
- (2) The Executive Director shall be responsible to the State Board for the day-to-day operation of the System, and shall on behalf of the State Board:
 - (A) Be responsible for the transmittal of communications from the State Board to the existing local boards of participating municipalities;
 - (B) Receive payroll and employment reports from participating municipalities and maintain current employment earnings and contribution data on each covered member of each participating municipality;
 - (C) Coordinate the activities of all other advisors, consultants, agents or employees appointed by the State Board;
 - (D) Maintain all necessary records reflecting the operation and administration of the System and submit detailed reports thereof to the State Board at each regular meeting of the State Board and such other time or times as requested by the State Board;
 - (E) Process all claims for payment or benefits or expenses for approval by the State Board; and (F) File on behalf of the State Board such reports or other information as shall be required by any state or federal law or regulations.

270:1-1-3. Methods whereby the public may obtain information or make submissions or requests

- (a) Information regarding pension matters within the purview of 11 O.S., Sections 49-100.7 through 49-143.3, which statues define the State Board's jurisdiction, may be secured by oral or written communication addressed to the State Board at its offices located at: Oklahoma Firefighters Pension and Retirement System, 4545 N. Lincoln Blvd., Suite 265, Oklahoma City, Oklahoma 73105-3414 (405) 522-4600.
- (b) The Executive Secretary of the State Board maintains in permanent form as public record and open to public inspection, records of the official proceedings of the State Board, as well as all rules, final orders or decisions of the State Board, such records being located in the State Board offices and shall be available upon request. All information, documents and copies contained in a member's file shall be given confidential treatment and shall not be made public without prior written consent of the member, or by subpoena or court order. Offices of the State Board are open daily Monday through Friday from 07:30 a.m. until 04:30 p.m.

270:1-1-4. Description of forms and instructions [REVOKED]

270:1-1-5. Hearing procedures

- (a) The State Board may conduct examinations and investigations of pension matters within the scope of its jurisdiction and authority, as it deems appropriate to secure information useful in the lawful administration of these provisions. The State Board may compel witnesses to appear and testify upon all

matters connected with these provisions in the same manner as provided by law for the taking of testimony.

(b) Any person, existing local board or participating municipality aggrieved by a decision of the Executive Director or the State Board on any matter concerning rights or benefits available under these provisions, may request a hearing before the State Board to review or reconsider those decisions.

(1) The request for hearing shall be mailed or delivered to the office of the System, located at 4545 N. Lincoln Blvd., Suite 265, Oklahoma City, Oklahoma 73105-3414.

(2) Upon receipt of the request for hearing, the State Board shall assign a hearing number thereto and shall notify the requesting party of the date of the hearing by mail. The appropriate existing local pension board of the participating municipality shall also be given notice of the hearing date by mail.

(3) Formal Hearing Procedures.

(A) All hearings shall be public except that all information, documents and copies contained in a member's file shall be given confidential treatment and shall not be made public without prior written consent of the member. The State Board may hold any part of the hearing in Executive Session as allowed by 25 O.S. Section 307, if the State Board determines that disclosure of confidential information or information that would seriously impair the ability of the public body to conduct the hearing or would violate confidentiality requirements of state or federal law. Upon a motion of any party, witnesses may be excluded from the hearing room when such witness is not testifying.

(B) The hearing shall be presided by the Chairman of the State Board, or the Chairman's designee, with the assistance of the legal counsel for the State Board.

(C) The order of procedure for the hearing shall be as follows:

- (i) The presiding officer, or the legal counsel for the State Board, shall present a recitation of the matters before the State Board;
- (ii) Opening statement by the requesting party;
- (iii) Presentation of evidence by the requesting party followed by questioning by the presiding officer, legal counsel for the State Board, or any member of the State Board;
- (iv) Presentation of evidence by the legal counsel for the State Board, if necessary, followed by questioning by the requesting party or any member of the State Board;
- (v) Opportunity for rebuttal testimony or additional evidence and questioning by interested parties may be allowed as the discretion of the presiding officer;
- (vi) Closing arguments by the requesting party.

(4) If the requesting party desires a certified court reporter at the hearing, the State Board will arrange for a certified court reporter upon request of the party. The cost of a certified court reporter shall be paid by the requesting party. Such request should be in writing but will not be considered if received less than ten (10) days before the hearing date.

(5) Requests for continuances received prior to the hearing date may be granted by the Chairman of the State Board for good cause shown.

(6) The State Board may in its discretion assign any matter to a hearing examiner to conduct a hearing and receive all evidence. The hearing examiner shall prepare a proposed order to be submitted to the State Board within ten (10) days after the hearing at a place convenient for the parties and/or witnesses. The State Board shall consider the proposed order of the hearing examiner at the next scheduled public meeting of the State Board.

(7) All decisions of the State Board shall be in writing and shall be mailed to all parties or their attorney of record.

(8) Any person who deems himself or herself aggrieved by a decision of the State Board on a claim for pension benefits shall appeal the decision of the State Board to the Oklahoma County District Court, as provided in 11 O.S. Section 49-128.

CHAPTER 10. FIREFIGHTERS PENSION AND RETIREMENT PLAN

Section

270: 10-1-4. Medical evaluation

270:10-1-5. Medical requirements for fire department candidates

270: 10-1-6. Physical performance/agility test

270: 10-1-7. Description of the essential functions of all eligible firefighters

270: 10-1-8. Standard operating procedure

270:10-1-9. Purchase of transferred credited service.

[**Authority:** 11 O.S., Section 49-100.7 and 49-116]

[**Source:** Codified 12-23-91]

270:10-1-4. Medical evaluation.

(a) Any candidate applying for entrance into the System as a paid firefighter must provide to the System written certification from a physician that the candidate has met the minimum medical requirements for entrance. Medical evaluations of such candidates shall be conducted prior to applications for entrance being submitted to the System. For the purposes of this section, candidate means any person being considered for membership as a paid firefighter. Medical evaluations of candidates including history, examinations, evaluations, and laboratory tests, shall be performed on each candidate in order to detect any condition(s) that could adversely affect the candidate's ability to perform all essential job functions of fire suppression, prevention and life safety duties, as set forth in 11 O.S. §49-100, *et seq.*

(b) The purpose of the minimum medical requirements is to reduce the risk and burden of fire service occupational morbidity and mortality while improving the safety and effectiveness of firefighters operating to protect civilian life and property. The minimum medical requirements ensure that candidates are medically capable of performing required duties, and reduces the risk of occupational injuries and illnesses, which has direct impacts on the well being of the candidate, members of the System, the System itself and the general civilian population.

[**Source:** Added at 21 Ok Reg 2133, eff06-26-04]

270:10-1-5. Medical conditions affecting ability to safely perform essential job functions.

(a) Medical conditions that can affect a candidate's ability to safely perform essential job functions shall be designated either Category A or Category B.

(b) Candidates with Category A medical conditions shall not be certified as meeting the medical requirements for entrance in to the System.

(c) Candidates with Category B medical conditions shall be certified as meeting the medical requirements for entrance into the System only if they can perform the essential job functions without posing a significant safety and health risk to themselves, members, or civilians.

(1) Head.

- (A) Category A medical conditions shall include the following:
 - (i) Defect of skull preventing helmet use or leaving underlying brain unprotected from trauma.
 - (ii) Any skull or facial deformity that would not allow for a successful respiratory facepiece fit test.
 - (iii) Any head condition that results in a person not being able to safely perform essential job functions.
- (B) Category B medical conditions shall include the following:
 - (i) Deformities of the skull such as depression or exostoses.
 - (ii) Deformities of the skull associated with evidence of disease of the brain, spinal cord, or peripheral nerves.
 - (iii) Loss or congenital absence of the bony substance of the skull.

(2) Neck.

- (A) Category A medical conditions shall include the following:
 - (i) Any neck condition that results in a person not being able to perform essential job functions.
 - (ii) Reserved
- (B) Category B medical conditions shall include the following:
 - (i) Thoracic outlet syndrome.
 - (ii) Congenital cysts, chronic draining fistulas, or similar lesions.
 - (iii) Contracture of neck muscles.

(3) Eyes and Vision.

- (A) Category A medical conditions shall include the following:
 - (i) Far visual acuity. Far visual acuity shall be at least 20/40 in each eye corrected with contact lenses or spectacles. Far visual acuity less than 20/100 in each eye for wearers of hard contacts or spectacles uncorrected.
 - (ii) Color perception. Monochromatic vision resulting in inability to use imaging devices.
 - (iii) Monocular vision.
 - (iv) Any eye condition that results in a person not being able to safely perform essential job functions.
- (B) Category B medical conditions shall include:
 - (i) Diseases of the eye such as retinal detachment, progressive retinopathy, or optic neuritis.
 - (ii) Ophthalmological procedures such as radial keratotomy or repair of retinal detachment.
 - (iii) Peripheral vision in the horizontal meridian of less than 110 degrees in the better eye or any condition that significantly affects peripheral vision in *both* eyes.

(4) Ears and hearing.

- (A) Category A medical conditions shall include the following:
 - (i) Chronic vertigo or impaired balance as demonstrated by the inability to tandem gait walk.
 - (ii) On audiometric testing, average hearing loss in the unaided better ear greater than 40 decibels (db) at 500 Hz, and 2000 Hz when audiometric device is calibrated to ANSI Z24.5.
 - (iii) Any ear condition (or hearing impairment) that result in a person not being able to safely perform essential job functions.

- (B) Category B medical conditions shall include the following:
- (i) Unequal hearing loss.
 - (ii) Average uncorrected hearing deficit at the test frequencies 500 Hz, 1000Hz, 2000 Hz and 3000 Hz greater than 40 db in *either* ear.
 - (iii) Atresia, stenosis, or tumor of the auditory canal.
 - (iv) External otitis.
 - (v) Agenesis or traumatic deformity of the auricle.
 - (vi) Mastoiditis or surgical deformity of the mastoid.
 - (vii) Meniere's syndrome, labyrinthitis, or tinnitus.
 - (viii) Otitis media.

(5) Dental.

- (A) Category A medical conditions shall include the following:
- (i) Any dental condition that results in a person not being able to safely perform essential job functions.
 - (ii) Reserved.
- (B) Category B medical conditions shall include:
- (i) Diseases of the jaws or associated tissues.
 - (ii) Orthodontic appliances.
 - (iii) Oral tissues, extensive loss.
 - (iv) Relationship between the mandible and maxilla that precludes satisfactory postorthodontic replacement or ability to use protective equipment.

(6) Nose, oropharynx, trachea, esophagus, and larynx.

- (A) Category A medical conditions shall include the following:
- (i) Tracheostomy.
 - (ii) Aphonia.
 - (iii) Any nasal, oropharyngeal, tracheal, esophageal, or laryngeal condition that results in a person not being able to safely perform essential job functions.
- (B) Category B medical conditions shall include:
- (i) Congenital or acquired deformity.
 - (ii) Allergic rhinitis.
 - (iii) Epistaxis, recurrent.
 - (iv) Sinusitis, recurrent.
 - (v) Dysphonia.
 - (vi) Anosmia.
 - (vii) Tracheal stenosis.
 - (viii) Naso-pharyngeal polyposis.

(7) Lungs and chest wall.

- (A) Category A medical conditions shall include the following:
- (i) Active hemoptysis.
 - (ii) Empyema.
 - (iii) Pulmonary hypertension.
 - (iv) Active tuberculosis.
 - (v) Obstructive lung diseases (e.g., emphysema, chronic bronchitis, asthma, etc.) with an $FEV_1 / FVC < 0.75$ with both FEV_1 and FVC below normal ($< 0.80\%$) as defined by the American Thoracic Society.
 - (vi) Hypoxemia - Oxygen saturation $< 90\%$ at rest or exercise desaturation $< 90\%$ (exercise testing indicated when resting oxygen is $< 94\%$ but $> 90\%$). Evaluate $\dot{V}O_2$ max as described by American College of Sports Medicine (ACSM).

(vii) Asthma - Reactive airways disease requiring bronchodilator or corticosteroid therapy in the previous 2 years. A candidate who has required these medications but who does not believe he/she has asthma shall demonstrate a normal response to cold air or methacholine (PC20 greater than 16mg/ml). To be safely administered, this test shall be performed by a qualified specialist and to be valid the candidate shall be off all anti-inflammatory medications for at least 4 weeks and off bronchodilators the day of testing. A negative challenge test [as described by American Thoracic Society (ATS)], along with no recent episode of bronchospasm off medication shall be considered evidence that the candidate does not have clinically significant airways hyperactivity or asthma.

(viii) Any pulmonary condition that results in a person not being able to safely perform essential job functions.

(B) Category B conditions shall include the following:

- (i) Pulmonary resectional surgery, chest wall surgery, pneumothorax.
- (ii) Pleural effusion.
- (iii) Fibrothorax, chest wall deformity, diaphragm abnormalities.
- (iv) Interstitial lung diseases.
- (v) Pulmonary vascular diseases or history of pulmonary embolism.
- (vi) Bronchiectasis.
- (vii) Infectious diseases of the lung or pleural space.
- (viii) Cystic fibrosis.
- (ix) Central or obstructive apnea.
- (x) Any other pulmonary condition that results in a person not being able to safely perform essential job functions.

(8) Heart.

(A) Category A medical conditions shall include the following:

- (i) Coronary artery disease, including history of myocardial infarction, angina pectoris, coronary artery bypass surgery, coronary angioplasty, and similar procedures.
- (ii) Cardiomyopathy or congestive heart failure, including signs or symptoms of compromised left or right ventricular function, including dyspnea, S3 gallop, peripheral edema, enlarged ventricle, abnormal ejection fraction, and/or inability to increase cardiac output with exercise.
- (iii) Acute pericarditis, endocarditis, or myocarditis.
- (iv) Syncope, recurrent.
- (v) A medical condition requiring and automatic implantable cardiac defibrillator or history of ventricular tachycardia or ventricular fibrillation due to ischemic or valvular heart disease, or cardiomyopathy.
- (vi) Third-degree atrioventricular block.
- (vii) Cardiac pacemaker.
- (viii) Idiopathic hypertrophic subaortic stenosis.
- (ix) Any cardiac condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

- (i) Valvular lesions of the heart, including prosthetic valves.
- (ii) Recurrent supraventricular or atrial tachycardia, flutter, or fibrillation.
- (iii) Left bundle branch block.
- (iv) Second-degree atrioventricular block in the absence of structural heart disease.
- (v) Sinus pause >3 seconds.

- (vi) Ventricular arrhythmia (history or presence of multi-focal PVCs or nonsustained ventricular tachycardia on resting EKG with or without symptoms; history or presence of sustained ventricular tachycardia with or without symptoms.
- (vii) Cardiac hypertrophy or hypertrophic cardiomyopathy.
- (viii) History of congenital abnormality.
- (ix) Chronic pericarditis, endocarditis, or myocarditis.

(9) Vascular system.

(A) Category A medical conditions shall include the following:

- (i) Hypertension with evidence of end organ damage or not controlled by approved medications.
- (ii) Thoracic or abdominal aortic aneurysm.
- (iii) Carotid artery stenosis or obstruction resulting in >50 percent reduction in blood flow.
- (iv) Peripheral vascular disease resulting in symptomatic claudication.
- (v) Any other vascular condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include:

- (i) Vasopastic phenomena such as Raynaud's phenomena.
- (ii) Thrombophlebitis and varicosities.
- (iii) Chronic lymphedema due to lymphadenopathy or venous valvular incompetency.
- (iv) Congenital or acquired lesions of the aorta or major vessels.
- (v) Circulatory instability as indicated by orthostatic hypotension, persistent tachycardia, and peripheral vasomotor disturbances .
- (vi) History of surgical repair of aneurysm of the heart or major vessel.

(10) Abdominal organs and gastrointestinal system.

(A) Category A medical conditions shall include the following.

- (i) Presence of uncorrected inguinal/femoral hernia regardless of symptoms.
- (ii) Any gastrointestinal condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include:

- (i) Cholecystitis.
- (ii) Gastritis.
- (iii) GI bleeding.
- (iv) Acute hepatitis.
- (v) Hernia including the following:
 - (I) Uncorrected umbilical, ventral, or incisional hernia if significant risk exists for infection or strangulation.
 - (II) Significant symptomatic hiatal hernia if associated with asthma, recurrent pneumonia, chronic pain, or chronic ulcers.
 - (III) Surgically corrected hernia > 3 months after surgical correction.
- (vi) Inflammatory bowel disease or irritable bowel syndrome.
- (vii) Intestinal obstruction.
- (viii) Pancreatitis.
- (ix) Diverticulitis.
- (x) History of gastrointestinal surgery.
- (xi) Peptic or duodenal ulcer or Zollinger-Ellison syndrome.
- (xii) Asplenia.
- (xiii) Cirrhosis, hepatic or biliary.

- (xiv) Chronic active hepatitis.

(11) Reproductive system.

- (A) Category A medical conditions shall include the following.
 - (i) Any genital condition that results in a person not being able to safely perform essential job functions.
 - (ii) Reserved.
- (B) Category B medical conditions shall include:
 - (i) Pregnancy, for its duration.
 - (ii) Dysmenorrhea.
 - (iii) Endometriosis, ovarian cysts, or other gynecologic conditions.
 - (iv) Testicular or epididymal mass.

(12) Urinary system.

- (A) Category A medical conditions shall include the following.
 - (i) Renal failure or insufficiency requiring continuous ambulatory peritoneal dialysis (CAPD) or hemodialysis.
 - (ii) Any urinary condition that results in a person not being able to safely perform essential job functions.
- (B) Category B medical conditions shall include:
 - (i) Diseases of the kidney.
 - (ii) Diseases of the ureters, bladder or prostate.

(13) Spine, scapulae, ribs, and sacroiliac joints.

- (A) Category A medical conditions shall include the following.
 - (i) Scoliosis of thoracic or lumbar spine with angle >40 degrees.
 - (ii) History of spinal surgery involving fusion of two or more vertebrae or rods that are still in place.
 - (iii) Any spinal or skeletal condition producing sensory or motor deficit(s) or pain due to radiculopathy or nerve root compression.
 - (iv) Any spinal or skeletal condition causing pain that frequently or recurrently requires narcotic analgesic medication.
 - (v) Cervical vertebrae fractures with multiple vertebral body compression greater than 25 percent; evidence of posterior element involvement, nerve root damage, disc involvement, dislocation (partial, moderate, severe), abnormal exam, ligament instability, symptomatic, and/or less than 6 months post injury or 1 year since surgery.
 - (vi) Thoracic vertebral fractures with vertebral body compression of greater than 50 percent; evidence of posterior element involvement, nerve root damage, disc involvement, dislocation (severe - with or without surgery), abnormal exam, ligament instability, symptomatic, and/or less than 6 months post injury or 1 year since surgery.
 - (vii) Lumbosacral vertebral fractures with vertebral body compression greater than 50 percent; evidence of posterior element involvement, nerve root damage, disc involvement, dislocation (severe - with or without surgery), abnormal exam, ligament instability, symptomatic, and/or less than 6 months post injury or 1 year since surgery.
 - (viii) Any spinal or skeletal condition that results in a person not being able to safely perform job functions.
- (B) Category B medical conditions shall include the following:
 - (i) Congenital or developmental malformations of the back, particularly those that can cause instability, neurological deficits, pain, or limits flexibility.
 - (ii) Scoliosis with angle <40 degrees.
 - (iii) Arthritis of the cervical, thoracic, or lumbosacral spine.

- (iv) Facet atrophism, high lumbosacral angle, hyperlordosis, Schmorl's nodes, Scheuermann's disease, spina bifida occulta, spondylolisthesis, spondylolysis, or transitional vertebrae.
- (v) History of infections or infarcts in the spinal cord, epidural space, vertebrae, or axial skeletal joins.
- (vi) History of laminectomy or discectomy or vertebral fractures.

(14) Extremities.

- (A) Category A medical conditions shall include the following:
 - (i) Bone hardware such as metal plates or rods supporting the bone during healing.
 - (ii) History of total joint replacement.
 - (iii) Amputation or congenital absence of upper extremity limb (hand or higher).
 - (iv) Amputation of either thumb proximal to the mid-proximal phalanx.
 - (v) Amputation or congenital absence of lower extremity limb (foot or above).
 - (vi) Chronic nonhealing or recent bone grafts.
 - (vii) History of more than one dislocation of the shoulder without surgical repair or with history of recurrent shoulder disorders within the last 5 years with pain or loss of motion, and with or without radiographic deviations from normal.
 - (viii) Any extremity condition that results in a person not being able to safely perform essential job functions.
- (B) Category B medical conditions shall include the following:
 - (i) History of shoulder dislocation with surgical repair.
 - (ii) Significant limitation of function of shoulder, elbow, wrist, hand, or finger, due to weakness, reduced range of motion, atrophy, unequal length, absence, or partial amputation.
 - (iii) Significant lack of full motion of hip, knee, ankle, foot, or toes due to weakness, reduced range of motion, atrophy, unequal length, absence, or partial amputation.
 - (iv) History of meniscectomy or ligamentous repair of the knee.
 - (v) History of intra-articular, malunited, or nonunion of upper or lower extremity fracture.
 - (vi) History of osteomyelitis, septic, or rheumatoid arthritis.

(15) Neurological disorders.

- (A) Category A medical conditions shall include the following:
 - (i) Ataxias of here do-degenerative type.
 - (ii) Cerebral arteriosclerosis as evidenced by a history of transient ischemic attack, reversible ischemic neurological deficit, or ischemic stroke.
 - (iii) Hemiparalysis or paralysis of a limb.
 - (iv) Multiple sclerosis with activity or evidence of progression within previous 3 years.
 - (v) Myasthenia gravis with activity or evidence or progression within previous 3 years.
 - (vi) Progressive muscular dystrophy or atrophy.
 - (vii) Uncorrected cerebral aneurysm.
 - (viii) All epileptic conditions to include simple partial, complex partial, generalized, and psychomotor seizure disorders other than those with complete control during previous 5 years. A candidate shall also have normal neurological examination without structural abnormality on brain imaging, normal awake and asleep EEG with photic stimulation and hyperventilation, as well as definitive statement from qualified neurological specialist. A

candidate with epilepsy shall not be cleared for firefighting duty until he or she has completed 5 years without a seizure on stable medical regimen or 1 year without a seizure after discontinuing all anti-epileptic drugs.

(ix) Dementia (Alzheimer's and other neuro-degenerative diseases) with symptomatic loss of function or cognitive impairment (e.g., <28 on Mini-Mental Status Exam).

(x) Any neurological condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Congenital malformations.

(ii) Migraine.

(iii) Clinical disorders with paresis, paralysis, dyscoordination, deformity, abnormal motor activity, abnormality of sensation, or complaint of pain.

(iv) History of subarachnoid or intraparenchymal hemorrhage.

(v) Abnormalities from recent head injury such as severe cerebral contusion or concussion.

(16) Skin.

(A) Category A medical conditions shall include the following.

(i) Metastatic or locally extensive basal or squamous cell carcinoma or melanoma.

(ii) Any dermatologic condition that would not allow for a successful respiratory facepiece fit test.

(iii) Any dermatologic condition that results in the person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include:

(i) Skin conditions of a chronic or recurrent nature (eczema, cystic acne, psoriasis) that cause skin openings or inflammation or irritation of the skin surface.

(ii) Surgery or skin grafting.

(iii) Mycosis fungoides.

(iv) Cutaneous lupus erythematosus.

(v) Raynaud's phenomenon.

(vi) Scleroderma (skin).

(vii) Vasculitic skin lesions.

(viii) Atopic dermatitis/eczema.

(ix) Contact or seborrheic dermatitis.

(x) Stasis dermatitis.

(xi) Albinism, Darier's Disease, Ichthyosis, Marfan's Syndrome, Neurofibromatosis, and other genetic conditions.

(xii) Folliculitis, Pseudo-folliculitis, Miliaria, Keloid folliculitis.

(xiii) Hidradenitis suppurativa, Furuncles, Carbuncles, or Grade IV acne (cystic).

(xiv) Mechanical-Bullous Disorders (Epidermolysis bullosa, Hailey Pemphigus, Porphyria, Pemphigoid).

(xv) Urticaria or Angioedema.

(17) Blood and blood-forming organs.

(A) Category A medical conditions shall include the following:

(i) Hemorrhagic states requiring replacement therapy.

(ii) Sickle cell disease (homozygous).

(iii) Clotting disorders.

(iv) Any hematological condition that results in a person not being able to safely perform essential job functions.

- (B) Category B medical conditions shall include:
 - (i) Anemia.
 - (ii) Leukopenia.
 - (iii) Polycythemia vera.
 - (iv) Splenomegaly.
 - (v) Any other hematological condition that results in a person not being able to safely perform essential job functions.

(18) Endocrine and metabolic disorders.

- (A) Category A medical conditions shall include the following:
 - (i) Diabetes mellitus, which is treated with insulin.
 - (ii) Diabetes not treated by insulin, which is not controlled as evidenced by Hemoglobin A1 C (HB A 1 C) measurement.
 - (iii) Any endocrine or metabolic condition that results in a person not being able to safely perform essential job functions.
- (B) Category B medical conditions shall include the following:
 - (i) Diseases of the adrenal gland, pituitary gland, parathyroid gland, or thyroid gland of clinical significance.
 - (ii) Nutritional deficiency disease or other metabolic disorder.
 - (iii) Diabetes mellitus that is well controlled on diet, exercise, and/or oral hypoglycemic agents.

(19) Systemic diseases and miscellaneous conditions.

- (A) Category A medical conditions shall include the following.
 - (i) Any systemic condition that results in a person not being able to safely perform essential job functions.
 - (ii) Reserved.
- (B) Category B medical conditions shall include:
 - (i) Connective tissue disease, such as dermatomyositis, lupus erythematosus, scleroderma and rheumatoid arthritis.
 - (ii) History of thermal, chemical, or electrical burn injury with residual functional deficit.
 - (iii) Documented evidence of a predisposition to heat stress with recurrent episodes or resulting residual injury.

(20) Tumors and malignant diseases.

- (A) Category A medical conditions shall include the following.
 - (i) Malignant disease that is newly diagnosed, untreated, or currently being treated.
 - (ii) Any tumor similar condition that results in a person not being able to safely perform essential job functions.
- (B) Category B medical conditions shall include the following:
 - (i) Benign tumors.
 - (ii) History of CNS tumor or malignancy.
 - (iii) History of head and neck malignancy.
 - (iv) History of lung cancer.
 - (v) History of GI or GU malignancy.
 - (vi) History of bone or soft tissue tumors or malignancies.
 - (vii) History of hematological malignancy.

(21) Psychiatric conditions.

- (A) Category A medical conditions shall include the following.

- (i) Any psychiatric condition that results in a person not being able to safely perform essential job functions.
 - (ii) Reserved.
- (B) Category B medical conditions shall include:
- (i) A history of psychiatric condition or substance abuse problem.
 - (ii) Requirement for medications that increase an individual's risk of heat stress, or other interference with the ability to safely perform essential job functions.

(22) Chemicals, drugs, and medications.

- (A) Category A medical conditions shall include the following.
- (i) Narcotics, including methadone.
 - (ii) Sedative-hypnotics.
 - (iii) Drugs that prolong Prothrombin Time, Partial Thromboplastin Time, or INR.
 - (iv) Beta-adrenergic blocking agents.
 - (v) Respiratory medications: Inhaled bronchodilators, inhaled corticosteroids, systemic corticosteroids, theophylline, and leukotriene receptor blockers/antagonists.
 - (vi) Evidence of illegal drug use detected through testing, conducted in accordance with Substance Abuse and Mental Health Service Administration (SAMHSA), shall be a Category A medical conditions.
 - (vii) Evidence of clinical intoxication or a measured blood alcohol level that exceeds the legal definition of intoxication according to the AHJ at the time of medical evaluation shall be considered a Category A medical condition.
 - (viii) Any chemical drug, or medication that results in person not being able to safely perform essential job functions.
- (B) Category B medical conditions shall include the following:
- (i) Cardiovascular agents.
 - (ii) Stimulants.
 - (iii) Psychoactive agents.
 - (iv) Corticosteroids.
 - (v) Antihistamines.
 - (vi) Muscle relaxants.

[Source: Added to 10 Ok Reg 1063, etI3-23-92 through 5-28-93 (emergency); Added at 13 Ok Reg 1601, eff5-28-96, Amended at 14 Ok Reg 2918, eff7-11-97, Amended at 21 Reg 2133 eff 06-26-04]

270: 1 0-1-6. Physical performance/agility test.

- (a) Any person being considered as a candidate for a position of a paid firefighter shall complete and pass a minimum physical performance/agility test based upon the following standards established by the State Board. The requirements for the test may be incorporated into an objective evaluation as to whether a candidate meets the initial criteria in order to perform the essential functions of a firefighter as described in Section 270: 1 0-1-7 of these rules, if equivalent to the requirements listed in subsection (c) of this section and with prior approval by the State Board of the performance test.
- (b) The candidate shall sign a waiver and release form acceptable to the State Board of any and all liability from injuries incurred as a result of the physical performance/agility test.
- (c) There shall be a minimum of six functions that shall be verified when the candidate is tested. The physical performance/agility test shall be part of the candidate's pension records.

- (1) The candidate shall complete one of the following:
 - (A) Run 1 ~ miles within 13 minutes.
 - (B) Walk 3 miles within 38 minutes.
 - (C) Bicycle 4 miles within 12 minutes.
 - (D) Swim 500 yards within 8 minutes and 20 seconds.
 - (E) Run in place 75 steps per minute for 15 minutes.
 - (F) Run on a motorized treadmill at 10 miles per hour for 6 minutes.
 - (G) Climb stairs consisting of 10 steps at 9 round trips per minute for 9 minutes. (2)

The candidate shall perform 35 bent-knee sit-ups within 2 minutes.

- (3) The candidate shall complete one of the following:
 - (A) Flexed arm hang-minimum time: 8 seconds (palms away) (B) Pull-ups minimum: 7 (palms away)
 - (C) Push-ups (standard)-minimum: 25
- (4) The candidate, given a beam secured to a level floor and measuring 20 ft. (6m) long by 3 to 4in. (76 to 102mm) wide, and given a length of fire hose weighing at least 20 lb. (9kg), shall walk the length of the beam, carrying the length of hose, without falling off or stepping off the beam.
- (5) The candidate, given a weight of 125 lb. (57kg) shall lift the weight from the floor and carry the weight 100 ft. (305m) without stopping.
- (6) The candidate starting from an erect position with feet apart, the distance closely approximately shoulder width, shall move a 15 lb. (7kg) weight in the following manner: bend over, grasp the weight with both hands while it is at a point on the floor between the feet, and lift the weight to waist level, then place the weight on the floor approximately 12 in. (305mm) outside the left foot, and without letting go, raise the weight to waist level and touch it to the floor about 12 in. (305mm) outside the right foot. The weight shall then be moved alternately in this fashion from the left foot to waist level, to right; right waist level to left until it has been moved 7 times in each direction with the total horizontal distance of travel being at least 21 in. (610mm) more than the space between the feet for each of the 14 moves. This shall be done in less than 35 seconds.

[Source: Added to 10 Ok Reg 1063, eff 3-23-92 through 5-28-93 (emergency); Added at 13 Ok Reg, 1601 eff 5-28-96; Amended at 14 Ok Reg 2918, 7-11-97]

270:10-1-7. Description of essential functions of all eligible firefighters

To be eligible for entrance into the System as a paid firefighter, a candidate must meet minimum medical requirements which reflect the ability of the candidate to perform the essential functions of fire suppression, prevention and life safety as set forth in O.S. 11 §49-100.1 et seq. The essential job functions reflect the physical, physiological, intellectual, psychological demands of the occupation including,

- (1) Performing firefighting functions (e.g., hoseline operations, extensive crawling, lifting and carrying heavy objects, ventilating roofs or walls using power or hand tools, forcible entry), rescue operations, and other emergency response actions under stressful conditions while wearing personal protective ensembles (PPE) and self-contained breathing apparatus (SCBA), including working in extremely hot or cold environments for prolonged periods of time.
- (2) Wearing an SCBA, which includes a demand valve-type positive pressure facepiece or HEP A filter masks, which requires the ability to tolerate increased respiratory workloads.
- (3) Exposure to toxic fumes, irritants, particulates, biological (infectious) and nonbiological hazards, and/or heated gases, despite the use of PPE including SCBA.
- (4) Climbing 6 or more flights of stairs while wearing fire protective ensemble weighing at least

50 lb or more and carrying equipment/tools weighing an additional 20 to 40 lb.

(5) Wearing fire protective ensemble that is encapsulating and insulating. Wearing this clothing will result in significant fluid loss that frequently progresses to clinical dehydration and can elevate core temperature to levels exceeding 102.2⁰ F (39⁰ C).

(6) Searching, finding, and rescue-dragging or carrying victims ranging from newborns up to adults weighing over 200 lb to safety despite hazardous conditions and low visibility.

(7) Advancing water-filled hoselines up 2.5 in. in diameter from fire apparatus to occupancy (approximately 150 ft.); can involve negotiating multiple flights of stairs, ladders, and other obstacles.

(8) Climbing ladders, operating from heights, walking or crawling in the dark along narrow and uneven surfaces, and operating in proximity to electrical power lines and/or other hazards.

(9) Unpredictable emergency requirements for prolonged periods of extreme physical exertion without the benefit of warm-up, scheduled rest periods, meals, access to medication(s), or hydration.

(10) Operating fire apparatus or other vehicles in an emergency mode with emergency lights and Sirens.

(11) Critical, time sensitive, complex problem solving during physical exertion in stressful, hazardous environments (including hot, dark, tightly enclosed spaces), further aggravated by fatigue, flashing lights, sirens and other distractions.

(12) Ability to communicate (give and comprehend verbal orders) while wearing PPE and SCBA under conditions of high background noise, poor visibility, and drenching from hoselines and/or fixed protection systems (sprinklers).

(13) Functioning as an integral component of a team, where sudden incapacitation of a member can result in mission failure or in risk of injury or death to civilians or other team members (e.g., two in, two out as described in NFPA 1500).

[Source: Added at 10 Ok Reg 1063, eff3-23-92 through 5-29-93 (emergency); Added at 13 Ok Reg, eff5-28-96; Amended at 21 Ok Reg 2142, eff06-26-04]

270:10-1-8. Standard operating procedures

(a) Benefits.

(1) All pension benefits are paid in arrears the last working day of the month.

(2) In determining a paid member's normal retirement date, fractional round-up of months and days shall not be used even if the member has volunteer credited service.

(3) If a member serves the majority of the final month of service, the final month will count as a full month of credited service.

(4) Where longevity pay or other salary which requires contributions is paid in a lump sum to a member, only the amount which would have been paid for a member's last thirty (30) months of credited service will be used for determining final average salary.

(5) Retirement pursuant to 11 O.S. § 49-106 has at times included reemployment of a member by a participating municipality in a position which is not covered by the System. Thus, in-service distributions from the System to such a member are permitted. If a retired member is reemployed by a participating municipality in a paid position which is covered by the System, such member's monthly retirement payments shall cease during such period.

(b) Clerks and fire chiefs.

(1) The clerk and/or the fire chief of a participating municipality, fire protection district, county fire department or developmental authority are responsible for the administration of local retirement issues affecting all members of the System, including but not limited to enrollment of eligible

members, assisting members in making application for benefits, and collection and payment of employer and member contributions.

(2) The clerk and/or the fire chief shall notify the System of any changes regarding active members such as termination, mailing addresses, and deaths. The fire chief will assist the clerk in obtaining necessary information concerning active members. Notices of termination must be provided on the System's Form 8 and shall be signed by the fire chief.

(c) Volunteer firefighters.

(1) A member of the System changing status from a paid member to a volunteer member is not entitled to combine the paid credited service and the subsequent volunteer credited service towards a paid or a volunteer pension. If a paid member has completed ten (10) years but less than twenty (20) years of credited service, the member would be eligible for a paid vested benefit. The member would need to complete ten (10) or more years as a volunteer member to be eligible to receive a vested volunteer benefit.

(2) Volunteer members are deemed to be employees of a fire department of a participating municipality for the purposes of the administration of the System.

(d) State Board.

(1) Applications for pension benefits will not be considered by the State Board until the applicant terminates employment with the fire department of a participating municipality on or before the date of the meeting of the State Board in which the application is considered.

(2) Applications for pension benefits, entrance into the system, refunds of contributions, etc. will be placed on the State Board Agenda when all paper-work has been properly completed and received by the State Office. All necessary paper-work should be filed with the State Office no later than the Friday preceding the State Board's regular meeting so as to allow sufficient time to process the application.

(e) Member deaths and beneficiaries.

(1) Guardian checks will be addressed with the Guardian's name and the statement: "Guardian of _____
„ on the face of the check.

(2) The Estate of the retiree or beneficiary shall be entitled to the benefit check written for the month a retiree or beneficiary dies.

(3) To continue monthly benefits on a child who has reached eighteen (18) years of age, verification that the child is emolled full-time in an accredited school of learning must be received by the System. Documentation is required each semester until the child reaches twenty-two (22) years of age or marries at which time the benefits will cease.

(4) Step children and grandchildren of members are not beneficiaries unless they are adopted by the member.

(5) Children adopted prior to January 1, 1981, are considered beneficiaries even though the child(ren) may have been adopted after the member's retirement date.

(6) A valid marriage certificate or other necessary proof of marriage is required before an Application of Surviving Spouse for Pension can be considered by the State Board.

(D) Membership.

(1) A part-time firefighter shall not belong to the System.

(2) All firefighters must be members of the System if their employer is a participating municipality in the System.

(3) A candidate for a paid firefighter position must first complete a required State Board approved pre-employment physical performance/agility test and physical examination in order to participate and receive any benefits from the System. The physical examination will be reviewed by the State Board's physician to determine if the applicant meets the required medical standards. When the

System receives all the information necessary for entrance into the System, including the written notice from the System's physician that the candidate has met the minimum requirements for entrance, the Executive Director shall have the authority to approve an entrance date for the candidate no earlier than the date all the necessary information is received or the actual hire date whichever is later, provided that the date between the time of the administration of the physical examination and the approval for membership in the System by the Executive Director and the candidate's actual hire date by the participating municipality is less than six (6) months. The State Board shall have the authority to deny or revoke the membership of a candidate submitting false information in such candidate's membership application and shall have the final authority in determining eligibility for membership in the System.

(4) An applicant for a paid firefighter position, who is an active volunteer firefighter with the same fire department, and who has passed the physical performance/agility test approved by the State Board as a condition for entrance as a volunteer firefighter shall only be required to pass the physical examination upon being employed as a paid firefighter if employed by the same fire department.

(5) A terminated paid firefighter who returns to work as a paid firefighter within six (6) months of his or her termination date will not be required to complete another physical examination.

(6) The classification of paid firefighter shall be a firefighter who is carried on the city payroll as a paid firefighter and who receive a salary which is more than twice the amount of the minimum pension of a volunteer firefighter. Any firefighter making more than this amount will need to complete the required physical performance/agility test and physical exam and his or her employer must remit both employee and employer contributions to the System.

(g) Credited Service.

(1) If a firefighter is off the payroll for a period of time and is not contributing to the System, that period of time will not count towards retirement.

(2) New volunteer cities joining the System may purchase up to five (5) years of credited service for each member of the department at the annual rate in effect as of the date of the purchase, provided verifiable evidence of 3L'live firefighter service for the purchased years for each individual is provided to the System. Even though a city is exempt from contributions, contributions must be paid for a volunteer firefighter to receive purchased credit.

(3) If a question arises concerning a member's correct amount of service time, the member must submit to the State Board three (3) affidavits, based upon the actual knowledge of the member's correct service time, and all other necessary documentation, as may be required by the State Board. The Chairman of the State Board may direct a member of the State Board or an employee of the System to visit the member and the city in question for further verification. Service time may be corrected to allow not more than twenty (20) years of service.

(4) Volunteer firefighters changing to paid firefighters.

(A) Pursuant to Subsection B of Section 49-108 of Title 11, any volunteer firefighter who is appointed as a paid firefighter on or after May 15, 1992, and serves ten (10) or more years as a paid firefighter, shall be entitled to credit not more than five (5) years of volunteer time toward twenty (20) years of credited service to qualify to receive a paid service pension. The volunteer firefighter shall be entitled to credit to the amount of credited service time, over and above the five (5) years of volunteer time, computed at one-twentieth (1/20) of a volunteer pensions of each additional volunteer year, but not to exceed thirty (30) years of credited service.

(B) Pursuant to Subsection B of Section 49-108 of Title 11, any volunteer firefighter who is appointed as a paid firefighter before May 15, 1992, and serves ten (10) or more years as a paid

firefighter, shall be entitled to credit all of the firefighter volunteer time as paid credited service to receive a paid service pension.

(h) Disability.

(1) Applications for disability pensions shall provide medical evidence certifying the disability, proof of injury unless otherwise provided, and that the applicant can no longer perform the duties of a firefighter. The proof of injury must be proof of the specific injury that prevented the disability pension applicant from continuing the duties of a firefighter from the time of injury until present.

In a case where the disability applicant returned to performing the duties of a firefighter at any time following the injury, the proof of injury must be accompanied by proof that certifies cumulative evidence of a continuing condition relating to that specific injury until the time of filing the disability application. In a case where a firefighter returned to a "light duty" or "restricted duty" only status, proof certifying the disability applicant's work status from the injury time until present shall be submitted along with the disability application. The application shall be filed with the Local Board, if the Local Board exists, or the Executive Director of the System. The existing Local Board or the Executive Director of the System will determine if additional medical evidence is required. If additional medical evidence is required, the State Board shall be responsible for payment of any physical examinations and certifications.

(2) If any additional medical evidence is produced concerning a disability pension application, said medical evidence must be presented to the Local Board, if the Local Board exists, or the Executive Director before the State Board considers the application. If an applicant requests a hearing before the State Board, all evidence concerning the application may be presented providing all parties affected by the hearing agree.

(3) A stroke condition that has been medically certified to be caused by heart disease shall be categorized as heart disease for the purpose of applying the line of duty presumption pursuant to 11 O.S. §49-11 0.

(4) Any medical testing requested by a physician for the purpose of certification of a disability at the request of an existing Local Board shall be approved by the Executive Director of the System prior to the medical testing.

(5) A volunteer member who completed more than ten (10) years of credited service shall be eligible for consideration of a disability in line of duty pension pursuant to the provisions of 11 O.S. §49-110 provided that competent medical evidence is presented to support the certification of said disability request.

(6) A participating municipality may make an application for a disability pension on behalf of a member provided that medical evidence is presented supporting the existence of a disability. The member may present medical evidence to the contrary.

(7) If there are physician's statements presented which disagree or there is only one physician statement presented, then the Local Board, if one exists, or the Executive Director shall have the medical records examined by a physician of their choosing. If the participating municipality has made the application request and the member presents contrary medical evidence it shall be the responsibility of the existing Local Board or the Executive Director to obtain an authorization of release of medical records from the member prior to the third physician examination.

(i) Local Boards.

(1) If an existing Local Board desires to have a member, who is receiving a disability pension, re-examined by a physician for the purposes of certifying if a disability still exists, the request shall be approved by the State Board.

(2) An existing Local Board meets when necessary to review applications for benefits and disability benefits. The Local Board minutes must show action taken by roll call vote. In cities and towns where the city clerk and city treasurer hold both positions the local board becomes a five (5)

member board. The board members shall elect a vice-chairman from among all board members who shall assume the duties of the mayor/chairman in that person's absence.

(3) Any action taken by the local board must be documented. The local board must present objective evidence to the State Board regarding its recommendation. The State Board will consider only the evidence actually presented. The State Board will act upon the evidence presented and render a final decision.

(4) If the city charter provides, the city councilor similar authority, in the absence of the mayor, city clerk or the treasurer, may designate an authorized official as a replacement member of the local board, such as the vice-mayor if he or she has the responsibilities of the mayor. A firefighter member of a local board cannot send a replacement. Only local board members present at a local board meeting may vote. The chairman shall have a casting vote with the members only when necessary to avoid a tie vote among local board members. All local board meetings are subject to the Oklahoma Open Meeting Act.

0) Contributions.

(1) There shall be a sixty (60) day waiting period on refund of contributions. If the firefighter requesting the refund of contributions was terminated from service which resulted in litigation or administrative action, the refund of contributions will not be made until there is a final judgement or conclusion to the litigation or administrative action.

(2) Gross salary shall include but not be limited to base salary, longevity pay, fire service training and other education pay, scuba pay, out of class pay, one time bonus pay earned during the current twelve (12) month period of employment, and buy back pay when paid on an annual basis and available to all firefighters. Gross salary shall not include payment for unscheduled overtime, payment for accumulated sick, annual or any other similar leave upon termination of employment, any uniform or clothing allowance, car allowance or any other compensation for reimbursement of out-of-pocket expenses. All other compensation not specifically mentioned must have contributions paid on them. Contributions shall be deducted from gross salary prior to federal and state income tax withholdings deductions.

(3) Volunteer pension contributions are due on July 1 of each year. Cities, towns or fire protection districts subject to the statutory exemption from payment of volunteer contributions shall file for exemption with the System on an annual basis.

(4) Workers Compensation benefits shall not be considered a part of gross salary for the purpose of determining pension benefits. The System will not accept member contributions related to workers compensation

(5) If a paid member terminated employment prior to January 1, 1981, and the subsequently returns to work as a paid member after January 1, 1981 and then again terminates, contributions paid in prior to January 1, 1981 would not be refundable.

(6) Salary means a predetermined sum payable at specified and regular times for services rendered including benefits accumulated and paid as salary; furthermore, any salary received that is to be used in computing a "final average salary" shall be reduced or pro-rated to a monthly amount. It shall be a violation of this section to establish a special pay plan for the purpose of evading the intent of this section.

(k) Reinstatement of Prior Service.

(1) If a paid firefighter terminates employment and receives a refund of contributions and then subsequently returns to work for a fire department in Oklahoma, all withdrawn contributions must be paid back to the System plus ten percent (10%) interest per annum (from the date the member received his or her accumulated contributions to the date of repayment) in order for the member to receive credit for the missed credited service time.

(2) The member's payment must be made to the System within ninety (90) days following acceptance of the member's application for reinstatement of prior service.

(3) The member may pay for reinstatement of prior service by a lump-sum payment by check or money order. Effective January 1, 2003, the member may also pay for reinstatement of prior service by a lump-sum payment (with interest) made with a trustee-to-trustee transfer from a Code Section 403 (b) annuity, a governmental 457 plan within Oklahoma or a Code Section 401 (a) qualified plan.

(1) Deferred Option Plan (Plan B).

(1) Upon termination of employment, a member participating in the Deferred Option Plan (Plan B) pursuant to 11 O.S. Section 49-106.1 A, B, C, D, E, and F shall have the following options:

(A) Receive a lump sum payment or installment payments of the member's accumulated Plan B balance including interest.

(B) The State Board retains custody of the member's remaining accumulated Plan B balance until the member receives a complete and final payout. No more than once a quarter of any year the member may elect with fifteen (15) working days advance written notice, to change such payout period or amount.

(C) In addition, a member may elect, with seven (7) working days written notice, a withdrawal, but no more than one such withdrawal may be made per quarter in any year and each withdrawal must be as of the first day of a month. If such withdrawal is made after payments have commenced under (B) above, appropriate adjustments may be made in the payout period under (B) above to reflect such withdrawal.

(D) If the member dies with a balance in the account, such balance will be paid in a lump sum or will continue to be paid in the same manner as was applicable to the member, as elected by the surviving spouse. If there is no surviving spouse, any remaining beneficiaries shall receive a lump sum payment(s) from the account equal to the balance in the account of the member or any other approved method of payment. If there are no surviving beneficiaries, a lump sum payment from the account equal to the balance in the account shall be paid to the member's estate.

(E) The interest earned annually on the Plan B account balances shall be calculated based on the return of the investment portfolio of the fund on June 30 of each year. The determined annual interest rate shall be applied on a pro rata account balance in the year the rate is established. If a member withdraws all or a portion of his or her account balance prior to June 30 of a given plan year, the member shall receive at the time of withdrawal interest earnings on the withdrawn amount equal to the actuarial assumed interest rate as certified by the actuary in the yearly valuation report of the actuary on a pro rata basis. If the annual interest earnings calculated on June 30 of a given year exceed the actuarial assumed interest rate as certified by the actuary in the yearly valuation report of the actuary, a member who withdraws all or a portion of his or her account balance prior to June 30 of said plan year shall receive additional interest earnings equal to the difference between the minimum actuarial interest rate and the calculated interest rate on a pro rata basis.

(F) At the conclusion of a member's participation in Plan B, the member must terminate employment and shall start receiving the member's accrued monthly retirement benefit from the System. Such a member may be reemployed by a participating municipality but only in a position not covered under the System, and receive in-service distributions of such member's accrued monthly retirement benefit from the System

(2) Participation in the Oklahoma Firefighters Deferred Option Plan must begin the first day of a month.

(m) Deferred Option Plan Under the Back DROP Provision.

(1) For purposes of this subsection, the definitions as stated in 11 O.S. Section 49-106 (H) (1) shall apply.

(2) In lieu of participating in the Deferred Option Plan (Plan B) pursuant to subsections A, B, C, D, E and F of 11 O.S. Section 49-106.1 (referred to herein as an election under Plan B), a member may elect to participate in the Deferred Option Plan pursuant to 11 O.S. Section 49-106.1 (H) (referred to herein as an election under the Back DROP provision) and this subsection.

(A) The applicant must submit his or her completed application for participation in the Deferred Option Plan under the Back DROP provision on the form provided by the System. (B) The application must be received by no later than seven (7) working days from the end of the month to receive a payment at the end of that month. All distributions shall be paid on the last day of a month.

(C) Upon the member's election to participate in the Deferred Option Plan under the Back DROP provision, the member's account balance shall remain in the System, under the same conditions as while an active member, unless the member requests a withdrawal.

(D) A member may receive a withdrawal as a lump sum payment or monthly installment payments. A member may also elect, with seven (7) working days written notice, a withdrawal, but no more than one such withdrawal may be made per quarter in anyone year and each withdrawal must be as of the first day of a month.

(E) If the member dies with a balance in the account, such balance will be paid in a lump sum or will be continue to be paid in the same manner as was applicable to the member, as elected by the surviving spouse. If there is no surviving spouse, any remaining beneficiaries shall receive a lump sum payment(s) from the account equal to the balance in the account of the member, or any other approved method of payment. If there are no surviving beneficiaries, a lump sum payment from the account equal to the balance in the account shall be paid to the member's estate.

(3) At the member's termination date, his or her monthly pension benefit shall be determined based on earlier attained credited service and on the final average salary as of the back drop date. The member's individual deferred option account shall be credited with an amount equal to the deferred benefit balance, and the member shall terminate employment with all participating municipalities as a firefighter and the member shall start receiving the member's accrued monthly retirement benefit from the System. Such member may be reemployed by a participating municipality but only in a position not covered under the System, and receive in-service distributions of such member's accrued monthly retirement benefit from the System. On the member's back drop date, the member's retirement benefit will be frozen, and at no time will the member be able to increase his or her benefit due to additional years of service, salary or other promotional increases.

(4) The member's credit of his or her deferred benefit balance shall be as follows:

(A) An amount equal to the accumulated contributions the member made to the System from his or her back drop date to termination date with interest based on how the benefit would have accumulated on a compound basis as if the member had participated in the Deferred Option Plan (Plan B) pursuant to the 11 O.S. Section 49-106.1 A-E from his or her back drop date to termination date;

(B) An amount equal to all monthly retirement benefits that would have been payable had the member elected to cease employment on the back drop date and receive a service retirement from the back drop date to the termination date with applicable cost of living adjustments and with interest based upon how the benefit would have accumulated on a compound basis as if the member had participated in the Deferred Option Plan pursuant to O.S. 11 Section 49-106 A-E from his or her back drop date to termination date; and

(C) An amount equal to one-half (1/2) of the employer contributions from the back drop date to the termination date, with interest based on how the benefit would have accumulated on a compound basis as if the member had participated in the Deferred Option Plan pursuant to 11 O.S. Section 49-106.1 A-E from his or her back drop date to termination date.

(5) The provisions of 11 O.S. Section 49-106.1 B, C, E, F and G shall apply to this subsection. (6) A member shall not participate in the Deferred Option Plan pursuant to the Back DROP provision if the member has elected to participate in Plan B pursuant to subsections A, B, C, D, E and F of 11 O.S. Section 49-106.1

(n) **Vested Rights.**

(1) A paid firefighter who terminated active service with more than ten (10) years of credited service with System prior to July 8, 1985, must return to active service as a paid firefighter in order to establish vested rights.

(2) A volunteer firefighter who terminated active service with ten (10) years of credited with the System prior to July 20, 1987, must return to active service as a volunteer firefighter in order to establish vested rights.

270: 1 0-1-9. Purchase of transferred credited service.

Effective January 15, 1991, all purchases of transferred credited service pursuant to 11 O.S. 49117.2, shall be based upon the actuarial cost of the incremental projected benefits to be purchased.

(1) The actuarial cost and any tables formulated for the purpose of determining such cost during each calendar year, shall be based on the actuarial assumptions utilized in the actuarial valuation report as of the preceding July 1.

(2) The actuarial value shall be based upon the member's age, salary and service at the time of purchase, together with the earliest age for retirement and actuarially projected salary at the time of retirement. For purposes of this actuarial cost, it is assumed that all members are married at the time of retirement. If purchase is not made within thirty (30) days the actuarial cost may increase.

(3) For the purpose of this actuarial cost, the member's age shall be rounded up or down to the nearest birthday.

(4) For purpose of this actuarial cost, the mortality tables shall be formulated as unisex table as used in the actuarial valuation report of the proceeding July 1.

(5) In the event a member who chooses to purchase service has been employed less than twelve (12) months, salary shall be annualized based upon the most current completed calendar months of payroll information.

(6) The purchase price for transferred credited service may be paid in installments as provided in 11 O.S. Section 49-117.3. In lieu of installment payments (for a purchase where installment payments are otherwise allowed by Oklahoma state statutes), an active member may elect to make the payment of actuarial purchase price, re-payment of previous withdrawal, purchase of previous non-participating service, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System by use of direct trustee-to-trustee transfer as authorized by the statutes governing the System.

(7) Effective January 1, 2002, in lieu of installment payments (for purchase where installment payments are otherwise allowed by Oklahoma state statutes), an active member may elect to make the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase previous non-participating service, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System by use of a direct trustee-to-

trustee transfer from a Code Section 403(b) annuity, a governmental Code Section 457 plan, and/or a Code Section 401(a) qualified plan.

- (8) Notwithstanding (6) and (7) of this subsection above, purchases may be made by a cash lump sum payment, installment payments (where otherwise allowed by Oklahoma state statutes), and/or by trustee-to-trustee transfer as described in (6) and (7) above.

270:10-1-10. Direct Rollovers

(a) A Distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

(b) Definitions:

(1) "Eligible Rollover Distribution" is generally a lump sum distribution except that an Eligible Rollover Distribution does not include monthly retirement benefits and minimum Distribution payments.

(2) "Eligible Retirement Plan" means an IRA (excluding a Roth IRA), a Section 403(a) annuity plan, and a 401(a) qualified plan that accepts the Distributee's Eligible Rollover Distribution. An Eligible Retirement Plan also means a 403(b) annuity and an eligible 457(b) plan which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the System. The definition of Eligible Retirement Plan also applies to a distribution to surviving spouse, or to a spouse or former spouse who is the alternate payee pursuant to qualified domestic order as defined in Subsection B of Section 49-126 of Title 11.

(3) "Distributee" means an employer or former employee. In addition, effective June 7, 1993, the employee's or former employee's surviving spouse and the employee's or former employee's spouse who is the alternate payee under a qualified domestic order, as defined in Subsection B of Section 49-126 of Title 11, are Distributees with regard to the interest of the spouse or former spouse.

(4) "Direct Rollover" means a payment by the System to the Eligible Retirement Plan specified by the Distributee.

(c) At least thirty (30) days and not more than ninety (90) days before the date of distribution, the Distributee must be provided with the IRS Notice regarding rollover options and tax effects. The distribution may be paid less than thirty (30) days after the notice is given, provided that:

(1) The Board clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution; and

(2) The Distributee, after receiving the notice, affirmatively elects a distribution.

**STATUTES PERTAINING TO
THE OKLAHOMA
FIREFIGHTERS PENSION
AND RETIREMENT SYSTEM**

TITLE ELEVEN

OKLAHOMA STATUTES

FIREFIGHTERS PENSION AND RETIREMENT SYSTEM

§49-100.1 Definitions

As used in this article:

1. "System" means the Oklahoma Firefighters Pension and Retirement System and all predecessor municipal firefighters pension and retirement systems;
2. "Article" means Article 49 of this title;
3. "State Board" means the Oklahoma Firefighters Pension and Retirement Board;
4. "Local board" means the local firefighters pension and retirement boards;
5. "Fund" means the Oklahoma Firefighters Pension and Retirement Fund;
6. "Member" means all eligible firefighters of a participating municipality or a fire protection district who perform the essential functions of fire suppression, prevention, and life safety duties in a fire department. The term "member" shall include but not be limited to the person serving as fire chief of any participating municipality, provided that a person serving as fire chief of a participating municipality shall meet the age, agility, physical and other eligibility requirements required by law at the time said person becomes a member of the System. Effective July 1, 1987, a member does not include a "leased employee". The term "leased employee" means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Section 414(n)(6) of the Internal Revenue Code of 1986, as amended) on a substantially full-time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer. A leased employee shall not be considered an employee of the recipient if the requirements of the safe harbor provisions of Section 414(n)(5) of the Internal Revenue Code of 1986, as amended, are satisfied. Effective July 1, 1999, any individual who agrees with the participating municipality that the individual's services are to be performed as a leased employee or an independent contractor shall not be a member regardless of any classification as a common law employee by the Internal Revenue Service or any other governmental agency, or any court of competent jurisdiction;
7. "Normal retirement date" means the date at which the member is eligible to receive the unreduced payments of the member's accrued retirement benefit. Such date shall be the first day following the date the member completes twenty (20) years of credited service. If the member's employment continues past the normal retirement date of the member, the actual retirement date of the member shall be the first day following the date the member terminates employment with more than twenty (20) years of credited service;
8. "Credited service" means the period of service used to determine the eligibility for and the amount of benefits payable to a member. Credited service shall consist of the period during which the member participated in the System or the predecessor municipal systems as an active employee in an eligible membership classification, plus any service prior to the establishment of the predecessor municipal systems which was credited under the predecessor municipal systems; provided however, "credited service" for members from a fire protection district shall not begin accruing before July 1, 1982;

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

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

11. "Executive Director" means the managing officer of the System employed by the State Board; 12. "Eligible employer" means any municipality with a municipal fire department or a fire protection district with an organized fire department;

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

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

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

In addition to other applicable limitations, and notwithstanding any other provision to the contrary, for plan years beginning on or after July 1, 2002, the annual gross salary of each "Noneligible Member" taken into account under the System shall not exceed the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") annual salary limit. The EGTRRA annual salary limit is Two Hundred Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended.

The annual salary limit in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which salary is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the EGTRRA salary limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12). For purposes of this subsection, a "Noneligible Member" is any member who first became a member during a plan year commencing on or after July 1, 1996.

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

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

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

years of age or twenty-two (22) years of age if the child is enrolled full time and regularly attending a public or private school or any institution of higher education. Any child adopted by a member after the member's retirement shall be a beneficiary only if the child is adopted by the member for the thirty (30) continuous months preceding the member's death. Any child who is adopted by a member after the member's retirement and such member dies accidentally or as a consequence of the performance of the member's duty as a firefighter shall not be subject to the thirty-month adoption requirement. This definition of beneficiary shall be in addition to any other requirement set forth in this article;

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

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

Added by Laws 1980, c. 352, § 1, eff. Jan. 1, 1981. Amended by Laws 1982, c. 320, § 1, operative July 1, 1982; Laws 1985, c. 222, § 1, em erg. eff. July 8, 1985; Laws 1987, c. 236, § 142, emerg. eff. July 20, 1987; Laws 1988, c. 267, § 1, operative July 1, 1988; Laws 1990, c. 143, § 1, emerg. eff. May 1, 1990; Laws 1991, c. 323, § 1, emerg. eff. June 12, 1991; Laws 1992, c. 390, § 1, em erg. eff. June 9, 1992; Laws 1993, c. 126, § 1, emerg. eff. May 3, 1993; Laws 1994, c. 84, § 1, eff. July 1, 1994; Laws 1994, c. 300, § 1, eff. July 1, 1994; Laws 1996, c. 208, § 1, em erg. eff. May 21, 1996; Laws 1998, c. 299, § 1, emerg. eff. May 28, 1998; Laws 1999, c. 193, § 1, eff. July 1, 1999; Laws 2000, c. 327, § 1, eff. July 1, 2000; Laws 2002, c. 398, § 1, eff. July 1, 2002; Laws 2003, c. 128, § 1, eff. July 1, 2003.

§49-100.2. Firefighters Pension and Retirement System - Creation - Powers and duties.

There is created the Oklahoma Firefighters Pension and Retirement System which shall be a body corporate and an instrumentality of this state. The System shall be vested with the powers and duties specified in this article and such other powers as may be necessary to enable it and its officers and employees to carry out fully and effectively the purposes and intent of this article. All assets of the System shall be held in trust for the exclusive purpose of providing benefits for the members and beneficiaries of the System or defraying reasonable expenses of administering the System, and shall not be encumbered for or diverted to any other purpose or purposes. This System shall be the responsibility of the state and not that of the participating municipalities. The System is a qualified governmental retirement plan under Sections 401 (a) and 414 (d) of the Internal Revenue Code of 1986, as amended (26 U.S.C.A. §§ 401, 414) and Section 3(32) of the Employee Retirement Income Security Act of 1974 (29 U.S.C.A. § 1002(32)). The Board shall administer the System in order to comply with the applicable provisions of the Internal Revenue Code of 1986, as amended.

Added by Laws 1980, c. 352, § 2, eff. Jan. 1, 1981. Amended by Laws 2000, c. 327, § 2, elf July 1, 2000; Laws 2002, c. 398, § 2, efl July 1, 2002.

§49-100.3. Firefighters Pension and Retirement Board.

A. There shall be an Oklahoma Firefighters Pension and Retirement Board which shall be composed of thirteen (13) members as follows:

1. Five members shall be the Board of Trustees of the Oklahoma Firefighters Association; 2. One member shall be the President of the Professional Fire Fighters of Oklahoma or his designee. The designee shall be a member of the Professional Fire Fighters of Oklahoma;

3. One member shall be the President of the Oklahoma State Retired Fire Fighters Association or his designee. The designee shall be a member of the Oklahoma State Retired Fire Fighters Association;

4. One member shall be appointed by the Speaker of the House of Representatives;

5. One member shall be appointed by the President Pro Tempore of the Senate;

6. Two members shall be appointed by the President of the Oklahoma Municipal League;

7. One member shall be the State Insurance Commissioner or his designee; and

8. One member shall be the Director of State Finance or his designee.

B. 1. The terms of office of the members appointed to the State Board by the President of the Oklahoma Municipal League who are members of the State Board on the operative date of this act shall expire on July 1, 1989. The members appointed to fill the positions that expire on July 1, 1989, shall serve initial terms of office as follows:

- a. the term of office of one of the members appointed by the President of the Oklahoma Municipal League shall expire on July 1, 1990; and
- b. the term of office of one of the members appointed by the President of the Oklahoma Municipal League shall expire on July 1, 1992.

Thereafter, the terms of office of the members of the State Board appointed by the President of the Oklahoma Municipal League shall be four (4) years.

2. The term of office of the member appointed to the State Board by the Speaker of the House of Representatives and the term of office of the member appointed to the State Board by the President Pro Tempore of the Senate who are members of the State Board on the operative date of this act shall expire on January 3, 1989. The members thereafter appointed shall serve terms of office of four (4) years.

3. Vacancies shall be filled for the unexpired term of office in the same manner as the original appointment was made.

C. Those members appointed to the State Board by the President of the Oklahoma Municipal League, the Speaker of the House of Representatives and the President Pro Tempore of the Senate or who are designees of an ex officio member of the State Board shall:

1. Have demonstrated professional experience in investment or funds management, public funds management, public or private pension fund management or retirement system management; or
2. Have demonstrated experience in the banking profession and have demonstrated professional experience in investment or funds management; or
3. Be licensed to practice law in this state and have demonstrated professional experience in commercial matters; or
4. Be licensed by the Oklahoma State Board of Public Accountancy to practice in this state as a public accountant or a certified public accountant.

The appointing authorities, in making appointments that conform to the requirements of this subsection, shall give due consideration to balancing the appointments among the criteria specified in paragraphs 1 through 4 of this subsection.

D. No member of the State Board shall be a lobbyist registered in this state as provided by law.

E. Notwithstanding any of the provisions of this section to the contrary, any person serving as an appointed member of the State Board on the operative date of this act shall be eligible for reappointment when the term of office of the member expires.

F. The State Board shall elect one of its members as Chairman at its annual meeting. The Chairman shall preside over meetings of the State Board and perform such other duties as may be required by the State Board. The State Board shall also elect another member to serve as Vice Chairman, and the Vice Chairman shall perform duties of Chairman in the absence of the latter or upon the Chairman's inability or refusal to act.

G. Prior to February 6, 1995, the State Board shall be prevented from making any payment or granting any benefit, with the exception of disability benefits for which provisions are otherwise made in Section 49-100.1 et seq. of this title, the actuarial liability for which has not been included in such Board's annual actuarial report prior to May 1, 1994.

H. The State board shall adopt a cost of living adjustment actuarial assumption in its annual actuarial valuation report.

Added by Laws 1980, c. 352, § 3, eff. Jan. 1, 1981. Amended by Laws 1988, c. 321, § I, operative July 1, 1988; Laws 1994, c. 383, § I, eff. July 1, 1994. Amended by Laws 2004, c. 536, § 1, eff. July 1, 2004.

§49-100.4. Meetings - Special meetings - Notice - Quorum - Per diem - Expenses.

A. The State Board shall hold regular meetings in Oklahoma City at least once each quarter, the dates, time, and place to be fixed by the State Board. The State Board shall hold a regular meeting in July of each year which meeting shall be the annual meeting at which it shall elect its Chairman. Special meetings may be called upon written call of the Chairman or by agreement of any eight (8) members of the State Board. Notice of a special meeting shall be delivered to all State Board members in person or by registered or certified United States mail not less than seven (7) days prior to the date fixed for the meeting; provided, however, that notice of such meeting may be waived by any member either before or after such meeting and attendance at such meeting shall constitute a waiver of notice of such meeting, unless a member participates therein solely to object to the transaction of any business because the meeting has not been legally called or convened.

B. Seven (7) State Board members shall constitute a quorum for the transaction of business, but any official action of the State Board shall be based upon a favorable vote by at least seven (7) State Board members at a regular or special meeting of the State Board.

C. Members shall receive per diem at the rate of Twenty-five Dollars (\$25.00) per day for each day in session and shall be reimbursed for necessary expenditures including mileage to and from meetings in accordance with the State Travel Reimbursement Act, which shall be paid as an operating expense from the appropriate operating fund of the System.

Added by Laws 1980, c. 352, § 4, eff. Jan. 1, 1981. Amended by Laws 1988, c. 321, § 2, operative July 1, 1988

§49-100.5. Office facilities - Records - Inspection - Financial statement - Audits.

A. The principal office of the System shall be in Oklahoma City, Oklahoma. Offices shall be assigned to the System by the Department of Central Services. Upon the failure or inability of the Department of Central Services to provide adequate facilities, the State Board is hereby authorized to contract for necessary office space in suitable quarters.

B. The State Board shall keep a record of all of its proceedings, which shall be open for inspection at all reasonable hours. A report including such information as the operation of the System for the past fiscal year, including income, disbursements, and the financial condition of the System at the end of each fiscal year and showing the valuation of its assets, investments, and liabilities, shall be delivered to the Governor after the end of each fiscal year but prior to October 1 of the next fiscal year and made available to the firefighters and participating municipalities.

C. The State Auditor and Inspector shall make an annual audit of the accounts of the System. The audit shall be filed as soon after the close of the fiscal year as practicable, in accordance with the requirements for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes.

Added by Laws 1980, c. 352, § 5, eff. Jan. 1, 1981. Amended by Laws 1983, c. 304, § 6, eff. July 1, 1983; Laws 1985, c. 222, § 2, eff. July 8, 1985; Lmlts 1996, c. 290, § 2, eff. July 1, 1996.

§49-100.6. Executive Director - Employees - Acceptance of gifts and gratuities - Actuary - Legal services.

A. The State Board shall appoint an Executive Director. Subject to the policy direction of the State Board, the Executive Director shall be the managing and administrative officer of the System and as such shall have charge of the office, records, and supervision and direction of the employees of the System.

B. The Executive Director shall recommend to the State Board the administrative organization, the number and qualifications of employees necessary to carry out the intent of this article, and the policy direction of the State Board. Upon approval of the organizational plan by the State Board, the Executive Director may employ such persons as are deemed necessary to administer this article.

C. The members of the State Board, the Executive Director and the employees of the System shall not accept gifts or gratuities from an individual organization with a value in excess of the amount per

year permitted by the Ethics Commission for all state officials and employees pursuant to Rule 257:201-9(b) of the Ethics Commission Rules. The provisions of this section shall not be construed to prevent the members of the State Board, the Executive Director or the employees of the System from attending educational seminars, conferences, meetings or similar functions which are paid for, directly or indirectly, by more than one organization.

D. The State Board may select and retain a qualified actuary who shall serve at its pleasure as its technical advisor or consultant on matters regarding the operation of the System. The actuary may at the direction of the State Board:

1. Make an annual valuation of the liabilities and reserves of the System, and a determination of the contributions required by the System to discharge its liabilities and administrative costs under this article, and recommend to the State Board rates of employer contributions required to establish and maintain the System on an adequate reserve basis;

2. As soon after the effective date of this act or as deemed necessary by the State Board, make a general investigation of the actuarial experience under the System, including mortality, retirement, employment turnover, and interest, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; and

3. Perform such other duties as may be assigned by the State Board.

E. The State Board shall retain an attorney licensed to practice law in this state. The attorney shall serve at the pleasure of the State Board for such compensation as set by the State Board. The Attorney General of the state shall furnish such legal services as may be required by the State Board.

Added by Laws 1980, c. 352, § 6, eff. Jan. 1, 1981. Amended by Laws 1988, c. 321, § 3, operative July 1, 1988; Laws 1994, c. 383, § 2, eff. July 1, 1994; Laws 2000, c. 327, § 3, eff. July 1, 2000.

§49-100.7. Administration of System - Rules and regulations - Accounts and records - Open meetings - Actuarial tables - Decisions of Board - Actions.

A. The State Board shall be responsible for the policies and rules for the general administration of the System, subject to the provisions of this article.

B. The State Board shall establish rules and regulations for the administration of the System and for the transaction of its business consistent with law, which rules and regulations shall be filed with the Secretary of State.

C. The State Board shall be responsible for the installation or provision of a complete and adequate system of accounts and records.

D. All meetings of the State Board shall be open to the public. The State Board shall keep a record of its proceedings.

E. The State Board may adopt all necessary actuarial tables to be used in the operation of the System as recommended by the actuary and may compile such additional data as may be necessary for required actuarial valuation calculations.

F. All decisions of the State Board as to questions of fact shall be final and conclusive on all persons except for the right of review as provided by law and except for fraud or such gross mistake of fact as to have effect equivalent to fraud.

G. The State Board shall take all necessary action upon applications for pensions, disability benefits, refund of accumulated contributions and shall take action on all other matters deemed necessary by the State Board.

Added by Laws 1980, c. 352, § 7, eff. Jan. 1, 1981. Amended by Laws 1985, c. 222, § 3, emerg. eff. July 8, 1985; Laws 1988, c. 321, § 4, operative July 1, 1988.

§49-100.8. Certified estimate of rate of contribution required, accumulated contributions and other assets of System.

The State Board shall certify to the Director of State Finance, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate, on or before July 15 of each year, an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the System to pay by level-dollar payments all liabilities which shall exist or accrue pursuant to the provisions of the System, including amortization of the unfunded accrued liability over a period of not to exceed thirty (30) years beginning July 1, 2003. *Added by Laws 1982, c. 320, § 6, operative July 1, 1982. Amended by Laws 1983, c. 143, § 5, emerg. eff May 26, 1983; Laws 1988, c. 267, § 2, operative July 1, 1988; Laws 2003, c. 334, § 1, em erg. eff May 29, 2003.*

§49-100.9. Duties of Board.

A. The Oklahoma Firefighters Pension and Retirement Board shall discharge their duties with respect to the System solely in the interest of the participants and beneficiaries and: 1.

For the exclusive purpose of:

- a. providing benefits to participants and their beneficiaries, and
- b. defraying reasonable expenses of administering the System;

2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

3. By diversifying the investments of the System so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

4. In accordance with the laws, documents and instruments governing the System.

B. The State Board may procure insurance indemnifying the members of the State Board from personal loss or accountability from liability resulting from a member's action or inaction as a member of the State Board.

C. The State Board may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the State Board appointed by the chairman of the State Board. The committee shall make recommendations to the full State Board on all matters related to the choice of custodians and managers of the assets of the System, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the State Board in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the State Board nor take effect without the approval of the State Board as provided by law.

D. The Board shall retain qualified investment managers to provide for the investment of the monies of the System. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the State Board. Subject to the overall investment guidelines set by the State Board, the investment managers shall have full discretion in the management of those monies of the System allocated to the investment managers. The State Board shall manage those monies not specifically allocated to the investment managers. The monies of the System allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

E. Funds and revenues for investment by the investment managers or the State Board shall be placed with a custodian selected by the State Board. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the State Board. In compliance with the investment policy guidelines of the State Board, the custodian bank or trust

company shall be contractually responsible for ensuring that all monies of the System are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the System as to the investment of the monies of the System in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the State Board for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

F. By November 1, 1988, and prior to August 1 of each year thereafter, the State Board shall develop a written investment plan for the System.

G. The State Board shall compile a quarterly financial report of all the funds of the System on a fiscal year basis. The report shall be compiled pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The State Board shall include in the quarterly reports all commissions, fees or payments for investment services performed on behalf of the State Board. The report shall be distributed to the Governor, the Oklahoma State Pension Commission, the Legislative Service Bureau, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

H. After July 1 and before October 1 of each year, the State Board shall publish widely an annual report presented in simple and easily understood language pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Oklahoma State Pension Commission and the members of the System. The annual report shall cover the operation of the System during the past fiscal year, including income, disbursements, and the financial condition of the System at the end of the fiscal year. The annual report shall also contain the information issued in the quarterly reports required pursuant to subsection G of this section as well as a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over funded status, contributions and any other information deemed relevant by the State Board. The annual report shall be written in such a manner as to permit a readily understandable means for analyzing the financial condition and performance of the System for the fiscal year. In order to standardize the information and analysis of the financial condition of the System, the Board shall provide information regarding the financial and actuarial condition of the System using assumptions or requirements as hereinafter required for the report stating the condition of the System as of July 1, 2002, and for each subsequent reporting date, which information shall be contained in an appendix or addendum to the annual report. For purposes other than the reporting requirements contained in the appendix or addendum, all actuarial and economic assumptions shall be those assumptions adopted by the System in its annual actuarial valuation. The appendix or addendum shall contain a statement of the financial condition of the System:

1. Using an assumed rate of return of seven and one-half percent (7.5%), net of investment expenses, per annum, compounded annually;

2. Using an actuarial assumption regarding cost-of-living adjustments for the System of two percent (2%) annually;

3. That relies upon the use of appropriate preretirement, postretirement and disability retirement information using generational projections taken from the RP-2000 Mortality Tables, published by the Society of Actuaries;

4. Which accurately and completely summarizes all sources of system assets, other than employee contributions, which shall include, but not be limited to, the total of all employer contributions, any

dedicated tax or fee revenue of whatever kind or however denominated, and the total amount of any other source of revenue which accrues to the System, other than return on investments, such as federal monies used for the purpose of making employer contributions; and

5. Using an assumption that the unfunded actuarial accrued liabilities of the System are amortized over a period of thirty (30) years, in a manner consistent with the Governmental Accounting Standards Board Statement Number 25.

1. Effective July 1,2000, the State Board is hereby authorized to do all acts and things necessary and proper to carry out the purpose of the System and to make the least costly amendments and changes, if any, as may be necessary to qualify the System under the applicable sections of the Internal Revenue Code of 1986, as amended.

Added by Laws 1988, c. 321, § 5, operative July 1, 1988. Amended by Laws 1992, c. 354, § 1; Laws 1995, c. 81, § 1, eff. July 1, 1995; Laws 2000, c. 327, § 4, eff. July 1,2000; Laws 2002, c. 391, § 3, eff. July 1,2002.

§49-1 00.1 O. Duties of fiduciaries.

A. A fiduciary with respect to the Oklahoma Firefighters Pension and Retirement System shall not cause the System to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect:

1. sale or exchange, or leasing of any property from the System to a party in interest for less than adequate consideration or from a party in interest to the System for more than adequate consideration; 2. lending of money or other extension of credit from the System to a party in interest without the receipt of adequate security and a reasonable rate of interest, or from a party in interest to the System with provision of excessive security or an unreasonably high rate of interest;

3. furnishing of goods, services or facilities from the System to a party in interest for less than adequate consideration, or from a party in interest to the System for more than adequate consideration; or

4. transfer to, or use by or for the benefit of, a party in interest of any assets of the System for less than adequate consideration.

B. A fiduciary with respect to the Oklahoma Firefighters Pension and Retirement System shall

not:

1. deal with the assets of the System in the fiduciary's own interest or for the fiduciary's own account;

2. in the fiduciary's individual or any other capacity act in any transaction involving the System on behalf of a party whose interests are adverse to the interests of the System or the interests of its participants or beneficiaries; or

3. receive any consideration for the fiduciary's own personal account from any party dealing with the System in connection with a transaction involving the assets of the System.

C. A fiduciary with respect to the Oklahoma Firefighters Pension and Retirement System may:

1. invest all or part of the assets of the System in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan; or

2. provide any ancillary service by a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan.

D. A person or a financial institution is a fiduciary with respect to the Oklahoma Firefighters Pension and Retirement System to the extent that the person or the financial institution:

1. exercises any discretionary authority or discretionary control respecting management of the Oklahoma Firefighters Pension and Retirement System or exercises any authority or control respecting management or disposition of the assets of the System;

2. renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the System, or has any authority or responsibility to do so; or

3. has any discretionary authority or discretionary responsibility in the administration of the System.

Added by Laws 1988, c. 321, § 6, operative July 1, 1988.

§49-100.11. Deposits of contributions and dedicated revenues - Warrants and vouchers.

A. All employee and employer contributions and dedicated revenues shall be deposited in the Oklahoma Firefighters Pension and Retirement Fund in the State Treasury. The State Board shall have the responsibility for the management of the Oklahoma Firefighters Pension and Retirement Fund, and may transfer monies used for investment purposes by the Oklahoma Firefighters Pension and Retirement System from the Oklahoma Firefighters Pension and Retirement Fund in the State Treasury to the custodian bank or trust company of the System.

B. All benefits payable pursuant to the provisions of the Oklahoma Firefighters Pension and Retirement System, refunds of contribution and overpayments, and all administrative expenses in connection with the System shall be paid from the Oklahoma Firefighters Pension and Retirement Fund upon warrants or vouchers signed by two persons designated by the State Board. The State Board may transfer monies from the custodian bank or trust company of the System to the Oklahoma Firefighters Pension and Retirement Fund in the State Treasury for the purposes specified in this subsection.

Added by Laws 1988, c. 321, § 7, operative July 1, 1988.

§49-101. Right to pension - Amount.

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

B. If a volunteer fire fighter terminates service after completing ten (10) years of credited service, the volunteer fire fighter shall receive a vested benefit. The volunteer fire fighter shall be entitled to a monthly pension commencing on the date the fire fighter reaches fifty (50) years of age or the date the fire fighter would have had twenty (20) years of credited service had the fire fighter's service continued uninterrupted, whichever is later. The monthly amount of such retirement benefit shall be the amount being paid to volunteer fire fighters at the time the member vests multiplied by the number of years of credited service. Credited service must be established at the time of the volunteer fire fighter's termination. If a volunteer fire fighter who terminates employment and receives a vested benefit dies prior to being eligible to receive benefits, the volunteer fire fighter's beneficiary shall be entitled to the volunteer fire fighter's normal monthly retirement benefit on the date the deceased volunteer fire fighter would have been eligible to receive the benefit.

Added by Laws 1977, c. 256, § 49-101, eff. July 1, 1978. Amended by Laws 1980, c. 352, § 8, eff. Jan. 1, 1981; Laws 1981, c. 224, § 1, emerg. eff. June 22, 1981; Laws 1983, c. 143, § 4, emerg. eff. May 26, 1983; Laws 1985, c. 222, § 4, emerg. eff. July 8, 1985; Laws 1986, c. 187, § 1, operative July 1, 1986; Laws 1987, c. 236, § 143, emerg. eff. July 20, 1987; Laws 1993, c. 126, § 2, emerg. eff. May 3, 1993.

§49-101.1. Purchase of credited service.

An eligible employer joining the Oklahoma Firefighters Pension and Retirement System on or after July 1, 2000, may purchase up to five (5) years of credited service for each volunteer member of a volunteer fire department at the annual contribution rate in effect as of the date of the purchase, provided verifiable

evidence of active firefighter service for the purchased years for each individual is provided to the System. Even though the participating municipality is exempt from contributions, contributions must be paid for a volunteer firefighter to receive purchased credited service. Payment for purchased credited service must be received by the System within six (6) months of the date the eligible employer becomes a participating municipality, and may be paid by the individual member. Six (6) months from the date the eligible employer becomes a participating municipality, any eligible prior credited service not purchased shall expire and not be available for determining benefits. Eligibility to receive purchased credited service shall be limited to those members of the new volunteer fire department enrolled at the time the eligible employer applies for affiliation with the System pursuant to Section 49-105.2 of Title 11 of the Oklahoma Statutes.

Added by Laws 2000, c. 327, § 5, eff July], 2000.

§49-101.2. Certain volunteers to be considered paid firefighters - Physical and agility requirements.

Any member serving as an active volunteer firefighter who receives annual compensation from a fire department in a participating municipality for services related to firefighting, other than reimbursement of expenses in excess of two (2) times the annual pension benefit paid by the System to a retired volunteer firefighter with twenty (20) years credited service shall be considered a paid firefighter and must meet the physical and agility requirements pursuant to Section 49-116 of this title to continue as an active member of the System. Credited service earned as a paid firefighter pursuant to this section shall not be considered actual experience as a paid firefighter for purposes of meeting the qualifications of a paid fire chief as provided in Section 29-102 of this title.

Added by Laws 2000, c. 327, § 6, eff July], 2000. Amended by Laws 2003, c. 460, § 7, eff July], 2003. Amended by Laws 2004, c. 546, § 1, eff July], 2004.

§49-102. Consolidation or annexation - Pension rights.

Whenever two or more adjacent municipalities participating in the System shall be made one, either by consolidation or annexation, those funds and those persons receiving benefits under the System shall be transferred to the new or surviving participating municipality and those persons receiving said benefits shall continue to retain all the rights and privileges granted therein; provided further that those active volunteer firefighters of participating municipalities shall be transferred and continued as volunteer firefighters and retain all the rights and privileges granted in this article.

Added by Laws 1977, c. 256, § 49-102, eff. July 1, 1978; Laws 1980, c. 352, § 9, eff Jan. 1, 1981.

§49-103. Local firefighter pension and retirement boards.

A. The mayor, the clerk and the treasurer of every incorporated municipality are, in addition to the duties now required of them, hereby created and constituted, together with three members from the fire department of such municipality, a local firefighters pension and retirement board of each such municipality, which board shall be known as the Local Firefighters Pension and Retirement Board. The fire department of each such municipality shall elect, by ballot, three members of such fire department, one of whom shall serve for the term of one (1) year, and one for the term of two (2) years, and one for the term of three (3) years, and thereafter such fire department shall, every year, elect by ballot one of its members to serve for the term of three (3) years upon the local board; provided, the provisions of this article shall not apply to any municipality where no regularly organized fire department is maintained, nor to any municipality where the fire department has firefighting apparatus of less than One Thousand Dollars (\$1,000.00) value.

B. Local firefighter pension and retirement boards of participating employers of the System shall be terminated on December 31, 2000, and all powers, duties and functions shall be assumed by the Executive Director unless a majority of the active firefighters of an affected fire department elect to

continue their local firefighter pension and retirement board before the termination date prescribed by this subsection, provided that an election shall be held within twenty (20) days of the date a petition is presented to the fire chief of a fire department signed by at least ten percent (10%) of the active firefighters on the rolls as of the petition date requesting an election to continue the local firefighter pension and retirement board.

Added by Laws 1977, c. 256, § 49-103, efJ. July 1, 1980. Amended by Laws 1980, c. 352, § 10, efJ. Jan. 1, 1981; Laws 2000, c. 327, § 7, efJ. July 1, 2000.

§49-104. Organization of board - Officers - Rules and other offices.

The mayor shall be an ex officio member and chairman of the local board, the municipal clerk shall be ex officio secretary, and the municipal treasurer shall be ex officio treasurer of the local board. The mayor shall have a casting vote with the members only when necessary to avoid a tie vote among them. The members shall elect a vice chairman from among them and promulgate such other rules and offices as may be necessary to insure the orderly conduct of business.

Added by Laws 1977, c. 256, § 49-104, efJ. July 1, 1978; Laws 1980, c. 352, § 11, efJ. Jan. 1, 1981.

§49-105. Meetings of local board - Record of proceedings - Quorum.

The local board shall hold meetings upon the call of its chairman at such times as the chairman deems necessary. The local board shall keep a record of its proceedings, which record shall be public record. A majority of all the regular voting members of the local board shall constitute a quorum and have power to transact business.

Added by Laws 1977, c. 256, § 49-105, efJ. July 1, 1980; Laws 1980, c. 352, § 12, efJ. Jan. 1, 1981.

§49-105.1. Responsibility of local board to review certain applications.

It shall be the responsibility of the local board to review applications for retirement benefits and disability benefits. Each local board shall recommend approval, disapproval or modification of each application and the secretary shall forward such recommendations to the State Board within ten (10) days following the local board's decision. Consideration by the local board shall be pursuant to this article and the rules and regulations of the State Board. The State Board shall furnish all required forms. *Added by Laws 1980, c. 352, § 13, efJ. Jan. 1, 1981; Amended by Laws 1985, c. 222, § 5, emerg. efJ. July 8, 1985.*

§49-105.2. Joining system - Application for affiliation - Consolidation of systems.

A. An eligible employer may join the System on the first day of any month. Application for affiliation shall be in the form of a resolution approved by the governing body of the eligible employer or by any other body or officer authorized by law or recognized by the State Board to approve such resolution or action. Upon the filing of a certified copy of such resolution with the State Board, such election shall be irrevocable and the eligible employer shall become a participating municipality on the first day of the month immediately following the filing of such election with the State Board.

B. Any municipality that has a municipal firefighters pension and retirement system prior to January 1, 1981, shall consolidate its system with the state System and become a participating municipality on the first entry date as provided in this article.

Added by Laws 1980, c. 352, § 14, efJ. Jan. 1, 1981; Amended by Laws 1987, c. 236, § 144, emerg. efJ. July 20, 1987.

§49-105.3. Municipalities contracting with private entities to provide fire protection.

Any participating municipality that contracts with private organizations, corporations or companies to provide fire protection in this state shall meet the requirements of the Oklahoma Firefighters Pension and Retirement System and the fire fighters of the participating municipality shall be members of the system.

Added by Laws 1988, c. 267, § 3, operative July 1, 1988.

§49-106. Retirement - Pension.

A. Any firefighter who reaches the firefighter's normal retirement date shall be entitled, upon written request, to retire from such service and be paid from the System a monthly pension equal to the member's accrued retirement benefit; provided, that the pension shall cease during any period of time the member may thereafter serve for compensation in any municipal fire department in the state. If such a member is reemployed by a participating municipality in a position which is not covered by the System, retirement shall also include receipt by such member of in-service distributions from the System.

B. With respect to distributions under the System made for calendar years beginning on or after January 1, 2005, the System shall apply the minimum distribution incidental benefit requirements, incidental benefit requirements, and minimum distribution requirements of Section 401 (a)(9) of the Internal Revenue Code of 1986, as amended, in accordance with the final regulations under Section 401 (a)(9) of the Internal Revenue Code of 1986, as amended, which were issued in April 2002 and June 2004, notwithstanding any provision of the System to the contrary. With respect to distributions under the System made for calendar years beginning on or after January 1, 2001 through December 31, 2004, the System shall apply the minimum distribution requirements and incidental benefit requirements of Section 401 (a)(9) of the Internal Revenue Code of 1986, as amended, in accordance with the regulations under Section 401 (a)(9) of the Internal Revenue Code of 1986, as amended, which were proposed in January 2001, notwithstanding any provision of the System to the contrary. Effective July 1, 1989, notwithstanding any other provision contained herein to the contrary, in no event shall commencement of distribution of the accrued retirement benefit of a member be delayed beyond April 1 of the calendar year following the later of:

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

The actual retirement date of the member.

C. Any member or beneficiary eligible to receive a monthly benefit from the System may make an election to waive all or a portion of monthly benefits.

Added by Laws 1977, c. 256, § 49-106, eff July 1, 1978. Amended by Laws 1980, c. 352, § 15, eff Jan. 1, 1981; Laws 1981, c. 99, § 1, em erg. eft: April 22, 1981; Lmvs 1989, c. 249, § 41, eff Jan. 1, 1989; Laws 1999, c. 193, § 2, eff July 1, 1999; Laws 2002, c. 398, § 3, elf July 1, 2002; Laws 2003, c. 128, § 2, eff July J, 2003. Amended by Laws 2004, c. 546, § 2, eff July 1, 2004; Laws 2005, c. 203, § J, emerg. eft: May 20, 2005.

§49-106.1. Oklahoma Firefighters Deferred Option Plan.

A. In lieu of terminating employment and accepting a service retirement pension pursuant to Sections 49-101 and 49-106 of this title, any member of the Oklahoma Firefighters Pension and Retirement System who has not less than twenty (20) years of creditable service and who is eligible to receive a service retirement pension may elect to participate in the Oklahoma Firefighters Deferred Option Plan and defer the receipts of benefits in accordance with the provisions of this section.

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

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

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

E. 1. A member who participates in this plan shall be eligible to receive cost of living increases. 2. A member who participates in this plan shall earn interest at a rate of two percentage points below the rate of return of the investment portfolio of the System, but no less than the actuarial assumed interest rate as certified by the actuary in the yearly evaluation report of the actuary. The interest shall be credited to the individual account balance of the member on an annual basis.

F. A member in the plan shall receive.>. at the option of the member, a lump sum payment from the account equal to the payments to the account, or an annuity based upon the account of the member or may elect any other method of payment if approved by the Board of Trustees. If a member becomes so physically or mentally disabled while in, or in consequence of, the performance of his duty as to prevent the effective performance of his duties that the State Board approves an in line of duty disability pension, the payment from the account shall be an in line of duty disability payment.

G. If a member dies while maintaining an account balance in the plan the System shall pay to the designated recipient or recipients of the member, or if there is no designated recipient or if the designated recipient predeceases the member, to the spouse of the member, or if there is no spouse or if the spouse predeceases the member, to the estate of the member a lump sum payment equal to the account balance of the member. If such member was receiving, or eligible to receive, an in line of duty disability pension at the time of his or her death, payment of the account balance shall be an in line of duty disability payment. If a designated recipient is the surviving spouse of the member, the surviving spouse shall receive his or her portion of the account balance of the member pursuant to subsection F of this section.

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

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

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

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

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

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

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

3. Effective July 1, 2003, if a member who has more than twenty (20) years of creditable service and who is eligible to receive a service retirement pension dies on or after July 1, 2003, and prior to terminating employment, his/her surviving spouse shall be eligible to elect to receive a benefit determined as if the member had elected to participate in the Oklahoma Firefighters Deferred Option Plan in accordance with this subsection on the day immediately preceding the member's death, provided such election is made within one year from the date of the member's death. The monthly pension such surviving spouse is receiving, or entitled to receive, shall be adjusted in accordance with the provisions of this subsection to account for the member's participation in the Oklahoma Firefighters Deferred Option Plan. The adjusted monthly pension so determined shall be subtracted from the monthly pension the surviving spouse was receiving prior to the election, and the difference for each month, if greater than zero (0), shall be adjusted to include interest based on the actuarial assumed interest rate as certified by the actuary in the yearly evaluation report of the actuary. The sum of all such adjusted monthly amounts shall be used to reduce the surviving spouse's account balance in the Oklahoma Firefighters Deferred Option Plan. For purposes of this election, the surviving spouse must have been married to the firefighter for the thirty (30) continuous months preceding the firefighter's death; provided, the surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for a participating municipality shall not be subject to the marriage limitation for this election.

Added by Laws 1989, c. 109, § 1. Amended by Laws 1990, c. 334, § 1, operative July 1, 1990; Laws 1993, c. 353, § 1, emerg. eff. June 10, 1993; Laws 1997, c. 247, § 1, eff. July 1, 1997; Lmvs 2003, c. 80, § 1, eff. July 1, 2003; Laws 2003, c. 334, § 2, emerg. eff. May 29, 2003. Amended by Laws 2004, c. 546, § 3, eff. July 1, 2004.

NOTE: Laws 2003, c. 128, § 3 repealed by Laws 2003, c. 334, § 5, emerg. eff. May 29, 2003.

§49-106.2. Limitations on benefits relating to Section 415 of Internal Revenue Code of 1986.

A. Notwithstanding any other provision contained herein to the contrary, the benefits payable to a member in the System shall be subject to the limitations of Section 415 of the Internal Revenue Code of 1986 in accordance with the provisions of subsections B and C of this section.

B. Except as provided in paragraphs 3 through 7 of this subsection, any accrued retirement benefit payable to a member shall not exceed the lesser of:

1. One Hundred Sixty Thousand Dollars (\$160,000.00), adjusted for increases in the cost of living, as prescribed by the Secretary of the Treasury or his delegate, effective January 1 of each calendar year and applicable to the limitation year ending with or within such calendar year; or

2. For limitation years beginning prior to January 1, 1995, one hundred percent (100%) of the average earnings of the member for the three (3) consecutive calendar years, while a member in the System, in which the member's earnings were the highest. For purposes of this paragraph, earnings for any limitation year shall be the earned income of the member, wages, salaries, and fees for professional services, and other amounts received for personal services actually rendered in the course of

employment with a participating municipality, provided such amounts are actually paid or includable in gross income during such year. Earnings shall exclude the following:

a. contributions by a participating municipality to a plan of deferred compensation which are not included in the gross income of the member for the taxable year in which contributed or any distributions from a funded plan of deferred compensation, and

b. other amounts which received special tax benefits, or contributions made by a participating municipality, whether or not under a salary reduction agreement, towards the purchase of an annuity described in Section 403(b) of the Internal Revenue Code of 1986, whether or not the amounts are actually excludable from the gross income of the member;

3. Except as provided in paragraph 5 of this subsection, the limitations specified in paragraphs 1 and 2 of this subsection shall not be applicable with respect to any member whose total annual accrued retirement benefit payable from the System is less than Ten Thousand Dollars (\$10,000.00) and who has not at any time participated in any contribution plan, within the meaning of Section 415(k) of the Internal Revenue Code of 1986, maintained by a participating municipality;

4. If a member has less than ten (10) years of participation in the System and all predecessor municipal firefighter pension and retirement systems, the dollar limitation otherwise applicable under paragraph 1 of this subsection shall be reduced by multiplying such limitation by a fraction, the numerator of which is the number of the years of participation in the System of the member, but never less than one (1), and the denominator of which is ten (10). This paragraph, to the extent required by the Secretary of the Treasury, shall be applied separately to each change in benefit structure hereunder;

5. Effective for limitation years beginning on or after January 1, 1995, if a member has been credited with less than ten (10) years of credited service, the dollar amount otherwise applicable under paragraph 3 of this subsection shall be reduced by multiplying such dollar amount by a fraction, the numerator of which is the number of the years of credited service of the member, but never less than one (1), and the denominator of which is ten (10);

6. The limitations specified in this section shall apply to a straight life annuity with no ancillary benefits and to an annuity that constitutes a qualified joint and survivor annuity. If payment is in a different form, the amount thereof shall be adjusted to be the actuarial equivalent of a single life annuity and the limitations shall be applied to such adjusted amount. Such adjustment shall be based on the mortality tables and interest rates described in divisions (1), (2) and (3) of subparagraph a of this paragraph.

a. If payment begins before the member reaches sixty-two (62) years of age, the limitation in paragraph 1 of this subsection shall be reduced on an actuarially equivalent basis.

(1) For limitation years beginning before January 1, 1999, the interest rate to be used to determine such actuarial equivalent amount in this subparagraph shall be the rate specified in the actuarial tables adopted by the State Board; however, the interest rate used in determining an actuarially equivalent preage-sixty-two (62) amount shall not be less than five percent (5%).

(2) Effective for limitation years beginning on or after January 1, 1999, the actuarial equivalent adjustments in this subparagraph shall be determined using the prevailing Commissioner's standard table (described in Section 807(d)(5)(A) of the Internal Revenue Code of 1986), without regard to any other subparagraph of Section 807(d)(5) of the Internal Revenue Code of 1986, used to determine reserves for group annuity contracts issued on the date as of which the payment is being determined. The interest rate shall be five percent (5%). Notwithstanding any other System provisions to the contrary, for distributions with annuity starting dates on or after December 31, 2002, the applicable mortality table used for purposes of adjusting any benefit or limitation under Sections 415(b)(2)(B), (C) or (D) of the Internal revenue Code of 1986, as amended, is the table described in Rev. Rul. 2001-62.

(3) For limitation years beginning on or after January 1, 1997, if payment begins before the member reaches age sixty-two (62), the reductions in the limitations in this subparagraph shall not apply

to a member who is a "qualified participant" as defined in Section 415(b)(2)(H) of the Internal Revenue Code of 1986.

b. If payment begins after the member reaches sixty-five (65) years of age, the limitation in paragraph 1 of this subsection shall be the actuarial equivalent of such amount otherwise applicable at the member reaching sixty-five (65) years of age.

(1) For limitation years beginning before January 1, 1999, the interest rate to be used to determine such actuarial equivalent amount in this subparagraph shall be the rate specified in the actuarial tables adopted by the State Board; however, the interest rate used in determining an actuarially equivalent postage-sixty-five (65) amount shall not be greater than five percent (5%).

(2) Effective for limitation years beginning on or after January 1, 1999, the actuarial equivalent adjustments in this subparagraph shall use the mortality and interest rate basis provided in division (2) of subparagraph a of this paragraph.

7. In no event shall the maximum annual accrued retirement benefit of a member allowable under this section be less than the annual amount of such accrued retirement benefit, including eady pension and qualified joint and survivor annuity amounts, duly accrued by the member as of the last day of the limitation year beginning in 1982, or as of the last day of the limitation year beginning in 1986, whichever is greater, disregarding any plan changes or cost-of-living adjustments occurring after July 1, 1982, as to the 1982 accrued amount, and May 5, 1986, as to the 1986 accrued amount.

8. For limitation years beginning on or after January 1, 1995, paragraphs 4,5 and 6 of this subsection shall not apply to a benefit paid under the System as a result of the member becoming disabled by reason of personal injuries or sickness, or amounts received by the beneficiaries, survivors or estate of the member as a result of the death of the member.

9. Effective for years beginning after December 31, 1997, if a member purchases service under Sections 49-117.2 and 49-117.3 of this title, which qualifies as "permissive service credit" pursuant to Section 415(n) of the Internal Revenue Code of 1986, as amended, the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, may be met by either:

a. treating the accrued benefit derived from such contributions as an annual benefit under paragraph 1 of this subsection, or

b. treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code of 1986, as amended.

10. Effective for years beginning after December 31, 1997, if a member repays to the System any amounts received because of the member's prior tennination pursuant to Section 49-117.1 of this title, such repayment shall not be taken into account for purposes of Section 415 of the Internal Revenue Code of 1986, as amended, pursuant to Section 415(k)(3) of the Internal Revenue Code of 1986, as amended.

C. For distributions made in limitation years beginning on or after January 1,2000, the combined limit of repealed Section 415(e) of the Internal Revenue Code of 1986, as amended, shall not apply.

D. The State Board is hereby authorized to revoke the special election previously made on June 21, 1991, under Internal Revenue Code Section 415(b)(1 0).

Added by Laws 1991, c. 323, § 2, emerg. ell June 12, 1991. Amended by Lml's 1999, c. 193, § 3, eif. July 1, 1999; Laws 2000, c. 327, § 8, ell July 1, 2000; Laws 2003, c. /28, § 4, eff July 1, 2003.

§49-106.3. Payment of distribution to retirement plan.

A. For distributions made on or after January 1, 1993, and notwithstanding any provision of the System to the contrary that would otherwise limit a Distributee's election hereunder, a Distributee may elect, at the time and in the manner prescribed by the State Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

B. For purposes of this section, the following definitions shall apply:

1. "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period often (10) years or more; any distribution to the extent such distribution is required under Section 401 (a)(9) of the Internal Revenue Code of 1986; and the portion of any distribution that is not includable in gross income. Provided, however, that, effective January 1, 2002, a portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax member contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or to a qualified defined contribution plan described in Section 401 (a) or 403(a) of the Internal Revenue Code of 1986, as amended, that agrees to separately account for amounts so transferred, including separate accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable;

2. "Eligible Retirement Plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1986, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986, an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986, or a qualified trust described in Section 401(a) of the Internal Revenue Code of 1986, that accepts the Distributee's Eligible Rollover Distribution. Effective January 1, 2002, an Eligible Retirement Plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, and an eligible plan under Section 457(b) of the Internal Revenue Code of 1986, as amended, which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the System. Effective January 1, 2002, the definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee to a qualified domestic order as defined in subsection B of Section 49-126 of this title. An Eligible Retirement Plan does not include a Roth IRA under Section 408(a) of the Internal Revenue Code of 1986, as amended;

3. "Distributee" means a member whether or not said member is an active firefighter. In addition, effective June 7, 1993, the member's surviving spouse and the member's spouse or former spouse who is an alternate payee under a qualified domestic order, as provided in subsection B of Section 49-126 of this title, are Distributees with regard to the interest of the spouse or former spouse; and

4. "Direct Rollover" means a payment by the System to the Eligible Retirement Plan specified by the Distributee.

C. At least thirty (30) days and not less than ninety (90) days before the date of distribution, the Distributee must be provided with a notice of rights which satisfies Section 402(f) of the Internal Revenue Code of 1986, as to rollover options and tax effects. Such distribution may commence less than thirty (30) days after the notice is given, provided that:

1. The State Board clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution; and

2. The Distributee, after receiving the notice, affirmatively elects a distribution.

Added by Laws 1999, c.193, § 4, ejJ July 1, 1999. Amended by Laws 2000, c. 327, § 9, ejJ July 1, 2000; Laws 2003, c. 128, § 5, ejJ July 1, 2003.

§49-108. Volunteer fire fighters with less than 10 years' service - Pension rights.

A. Any volunteer fire fighter who is appointed as a paid fire fighter and serves less than ten (10) years as a paid fire fighter, shall be entitled to receive one-twentieth (1/20) of a volunteer pension for

each full year served as a volunteer fire fighter and one-twentieth of one-half (1/20 of 1/2) of the average salary received for each full year the fire fighter served as a paid fire fighter.

B. Any volunteer fire fighter who is appointed as a paid fire fighter after the effective date of this act and serves ten (10) or more years as a paid fire fighter, shall be entitled to credit no more than five (5) years of volunteer time to complete a twenty-year paid service pension with remaining volunteer time computed at one-twentieth (1/20) of a volunteer pension for each additional volunteer year. Any volunteer fire fighter who is appointed as a paid fire fighter before the effective date of this act and serves ten (10) or more years as a paid fire fighter, shall be entitled to credit all of the fire fighter's volunteer time to complete a twenty-year paid service pension.

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

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

Added by Laws 1977, c. 256, § 49-108, efJ July 1, 1978. Amended by Laws 1980, c. 352, § 16, efJ Jan. 1, 1981; Laws 1992, c. 203, § 1, emerg. efJ May 15, 1992; Laws 2000, c. 327, § 10, efJ July 1, 2000.

§49-109. Retirement for disability - Restoration to service - Disability or death not in line of duty.

A. Whenever any firefighter serving in any capacity in a regularly constituted fire department of a municipality shall become so physically or mentally disabled while in, or in consequence of, the performance of the firefighter's duty as to prevent the effective performance of the firefighter's duties, the State Board may, upon the firefighter's written request, or without such request if the State Board deems it for the good of the department, retire the firefighter from active service, and if so retired, shall direct that the firefighter be paid from the System a monthly pension equal to the greater of:

1. Fifty percent (50%) of the average monthly salary which was paid to the firefighter during the last thirty (30) months of the firefighter's service; or

2. Two and one-half percent (2 1/2%) of the firefighter's final average salary multiplied by the member's years of credited service, not to exceed thirty (30) years, provided such firefighter has completed twenty (20) or more years of credited service; provided, that whenever such disability shall cease such disability pension shall cease; provided further, that if the disability ceases within two (2) years from the date of the firefighter's disability retirement and before the firefighter's normal retirement date, the formerly disabled person shall be restored to active service at the salary attached to the rank the firefighter held at the time of the firefighter's disability retirement provided the firefighter is capable of performing the duties of a firefighter; provided further, that if a firefighter participates in the Oklahoma Firefighters Deferred Option Plan pursuant to Section 49-106.1 of this title, the firefighter's disability pension provided pursuant to this subsection shall be reduced to account for the firefighter's participation in the Oklahoma Firefighters Deferred Option Plan.

B. Whenever any firefighter, who has served in any capacity in a regularly constituted fire department of a municipality of the state, and who has served less than the firefighter's normal retirement date, shall become so physically or mentally disabled from causes not arising in the line of duty as to prevent the effective performance of the firefighter's duties, the firefighter shall be entitled to a pension during the continuance of said disability based upon the firefighter's service period which shall be fifty percent (50%) of the average monthly salary which was paid to the firefighter during the last sixty (60) months of the firefighter's service.

C. No firefighter shall accrue additional service time while receiving a disability pension; provided further, that nothing herein contained shall affect the eligibility of any firefighter to apply for and receive a retirement pension after the firefighter's normal retirement date; provided further, that no firefighter shall receive retirement benefits from the System during the time the firefighter is receiving

disability benefits from the System. Any member or beneficiary eligible to receive a monthly benefit pursuant to this section may make an election to waive all or a portion of monthly benefits.

Added by Laws 1977, c. 256, § 49-109, eff July 1, 1978. Amended by Laws 1980, c. 352, § 17, eff Jan. 1, 1981 Amended by Laws 1985, c. 222, § 6, emerg. eff July 8, 1985. Amended by Laws 2004, c. 546, § 4, eff July 1, 2004.

§49-110. Certificates of disability - Presumptions - Medical evidence and records.

A. No firefighter shall be retired, as provided in Section 49-109 of this title, or receive any pension from the System, unless there shall be filed with the State Board certificates of the firefighter's disability. Any member of the fire department of any municipality who is disabled as a result of heart disease, injury to the respiratory system, infectious disease, or the existence of any cancer which heart disease, injury to the respiratory system, infectious disease, or cancer was not revealed by the physical examination passed by the member upon entry into the department, shall be presumed to have incurred the heart disease, injury to the respiratory system, infectious disease, or cancer while performing the firefighter's duties as a member of such department unless the contrary is shown by competent evidence. As used in this section, "infectious disease" means hepatitis, human immunodeficiency virus, meningitis and tuberculosis. Effective November 10, 1999, the provisions of this subsection relating to infectious disease shall apply.

B. Medical treatment based on the presumptions prescribed by subsection A of this section shall be provided by the municipality as a job-related illness until a court of competent jurisdiction determines that the presumption does not apply. If it is subsequently determined that the illness is not job-related, the workers' compensation provider shall be reimbursed for expenditures made for health care services by the medical plan or benefit provided by the municipality for the employee.

C. If any such member fails to submit evidence of a physical examination prior to entry into the fire department, there shall be no presumption the heart disease, injury to the respiratory system, infectious disease, or cancer was incurred while performing the firefighter's official duties and it shall be the duty of the State Board to determine if the heart disease, injury to the respiratory system, infectious disease, or cancer was incurred while performing the member's official duties.

D. Whenever a participating municipality on behalf of a member or a member applies for a disability benefit, the application shall be accompanied by proof of injury unless otherwise provided and medical evidence supporting the existence of a disability, certified by the member's or municipality's physician, that the member is unable to perform the duties of a firefighter. Should the application be made by a municipality, the member may submit medical evidence or reports from the member's physician to the local board. If both the municipality's physician and the member's physician certify to the disability, the local board shall act upon the application.

E. In regards to applications made by either an individual member or a municipality, should the physicians disagree, or if there is only one physician statement, the local board shall be required to have all the medical records concerning the applicant's disability reviewed by a physician selected by the local board and, if required by the reviewing physician, the local board shall have the member examined. The local board shall act upon all the physician's statements. Local board physician examinations and certifications shall be paid by the State Board and shall be limited to only those conditions upon which the member or the municipality on behalf of the member is requesting a disability .

F. If the State Board deems appropriate, an independent physician may be selected by the State Board to review medical records and examine the member. The physicians selected by the State Board shall submit a report and recommendation to the State Board. The local board may request assistance from the State Board in selecting a physician. Final determination on all disability applications shall rest solely with the State Board.

Added by Laws 1977, c. 256, § 49-110, eff July 1, 1978. Amended by Laws 1980, c. 352, § 18, eff Jan. 1, 1981; Laws 1982, c. 320, § 2, operative July 1, 1982; Laws 1987, c. 236, § 145, emerg. eff July 20, 1987; Laws 1993, c. 353, § 2, emerg. eff

June 10, 1993; Laws 1998, c. 296, § 1, eff July 1, 1998; Laws 2001, c. 359, § 1, eff July 1, 2001; Laws 2002, c. 398, § 4, eff July 1, 2002.

§49-111. Temporary sickness or disability.

A. Whenever any member of the fire department of any municipality, on account of sickness or temporary disability, other than a bum injury, caused or sustained while in the discharge of the member's duty as such member, is unable to perform the member's duties, notwithstanding the provisions of Sections 11 and 12 of Title 85 of the Oklahoma Statutes, the salary shall be paid by the municipality to the member and shall continue while the member is sick or temporarily disabled for a period of not more than six (6) months with the municipality having the option of extending the period for up to an additional six (6) months, not to exceed a total of twelve (12) months, after which period the provisions for disability benefits under the Oklahoma Firefighters Pension and Retirement System shall apply.

B. Whenever any member of the fire department of any municipality, on account of a bum injury, caused or sustained while in the discharge of the member's duty as such member, is unable to perform the member's duties, notwithstanding the provisions of Sections 11 and 12 of Title 85 of the Oklahoma Statutes, the salary shall be paid by the municipality to the member and shall continue while the member is sick or temporarily disabled for a period of not more than twelve (12) months with the municipality having the option of extending the period for up to an additional six (6) months, not to exceed a total of eighteen (18) months, after which said period the provisions for disability benefits under the Oklahoma Firefighters Pension and Retirement System shall apply.

C. Should a member receiving a salary under this section be eligible to receive, and should the salary of the member under this section exceed any temporary disability benefit paid to the member under Section 1 et seq. of Title 85 of the Oklahoma Statutes, the member shall transfer such temporary disability benefits under Section 1 et seq. of Title 85 of the Oklahoma Statutes to the municipality while the member is sick or temporarily disabled.

Added by Laws 1977, c. 256, § 49-111, e.o.: July 1, 1978. Amended by Laws 1980, c. 352, § 19, e.o.: Jan. 1, 1981; Laws 1993, c. 80, § 1, eff July 1, 1993, Laws 1997, c. 182, § 1, eff July 1, 1997.

§49-112. Pensions for loss of life.

Whenever any member of the fire department shall lose his or her life by reason of any injury or sickness sustained by him or her while in, or in consequence of, the performance of his or her duty or while on active duty in the National Guard and Reserves called to active duty, leaving a surviving spouse, or child or children under the age of eighteen (18) years, then, upon satisfactory proof of such facts made to it, the State Board shall order and direct that a monthly pension be paid in accordance with the provisions of Section 49-113 of this title. If the member does not leave a beneficiary, the accumulated contributions made to the System by the member shall be paid to the estate of the member. *Added by Laws 1977, c. 256, § 49-112, eff July 1, 1978; Laws 1980, c. 352, § 20, eff Jan. 1, 1981. Amended by Laws 1990, c. 143, § 2, em erg. eff May 1, 1990; Laws 1991, c. 125, § 1, em erg. eff April 29, 1991.*

§49-113. Death of fire fighter for any cause - Payment of benefits to beneficiaries.

A. 1. In the event of the death of a firefighter who at the time of the firefighter's death was drawing a pension, other than a disability pension, or who at the time of the firefighter's death (whether death occurred while on duty, but not in or in consequence of the performance of duty, or while on vacation or off duty) was eligible, upon written request, to retire and draw a pension, other than a disability pension, the beneficiary of such person shall be paid an amount not to exceed one hundred percent (100%) of said pension.

2. In the event of the death of a firefighter who at the time of the firefighter's death was drawing, or eligible to draw, a disability pension for a physical or mental disability that occurred while in, or in consequence of, the performance of the firefighter's duty, and which prevepted the effective

performance of the firefighter's duties, and which caused the State Board to retire the firefighter from active service, the beneficiary of such person shall be paid an amount not to exceed one hundred percent (100%) of the pension paid in accordance with subsection A of Section 49-109 of this title.

3. In the event of the death of a firefighter who at the time of the firefighter's death was drawing, or eligible to draw, a disability pension for a physical or mental disability from causes not arising in the line of duty and which prevented the effective performance of the firefighter's duties, the beneficiary of such person shall be paid an amount not to exceed one hundred percent (100%) of the pension paid in accordance with subsection B of Section 49-109 of this title.

4. Effective March 1, 1997, if a firefighter to whom a retirement or disability benefit has been awarded, or who is eligible therefor, dies prior to the date as of which the total amount of retirement or disability benefit paid equals the total amount of the employee contributions paid by or on behalf of the member and the member does not have a surviving beneficiary, the total benefits paid as of the date of the member's death shall be subtracted from the accumulated employee contribution amount and the balance, if greater than zero (0), shall be paid to the member's estate.

5. Any person eligible to receive a payment pursuant to this section may make an election to waive all or a portion of monthly payments.

B. In the event of the death of the surviving spouse, the pension shall cease, and should there then be but one living child same shall receive an amount equal to one hundred percent (100%) of said pension, but if there then be more than one living child, one hundred percent (100%) of said pension shall be divided equally between the children until each child reaches the age of eighteen (18) years or until the age of twenty-two (22) years if the child is enrolled full time and regularly attending a public or private school or any institution of higher education. Provided, that in the event the State Board finds that such a child who is not married at the time of death of the member or the member's surviving spouse and who at the time the child attains or attained the age of eighteen (18) years is either physically or mentally disabled, the pension thereof shall continue so long as such disability remains; provided, that upon the death of the firefighter and surviving spouse, if any, said physically or mentally disabled child shall be entitled to have paid to the child's trustee of a trust, whether inter vivos or testamentary, which trust provides for the receipt of the pension benefits to be held and administered for the sole benefit of said physically or mentally disabled child, or if there is no trust, to the child's legally appointed guardian, an amount not to exceed one hundred percent (100%) of said pension. The money so paid to the guardian or trustee shall be used solely for the benefit of the disabled child and it shall be reported annually to the State Board. The payment so provided shall be calculated after payments have been made to all eligible children as provided in this section; provided further, that beneficiaries now receiving pensions under the provisions of Sections 49-112 or 49-113 of this title shall, upon application to the State Board, thereafter be entitled to a pension equal to the amount which they would have received if this act were in effect at the time the right to said pension accrued.

C. In the event a surviving spouse of a member remarried prior to June 7, 1993, the surviving spouse shall be eligible to receive the pension benefits provided for in this section. To receive the pension benefits provided for in this section the surviving spouse falling within this section shall submit a written request for such benefits to the Oklahoma Firefighters Pension and Retirement System. The Oklahoma Firefighters Pension and Retirement System shall approve requests by surviving spouses meeting the requirements of this section. Upon approval by the Oklahoma Firefighters Pension and Retirement System, the surviving spouse shall be entitled to the pension benefits provided for in this section beginning from the date of approval forward. Pension benefits provided to surviving spouses falling within this section shall not apply to alter any amount of pension benefits paid or due prior to the Oklahoma Firefighters Pension and Retirement System's approval of the remarried surviving spouse's written request for benefits.

D. No surviving spouse shall receive benefits from this section, Section 50-117 of this title, or Section 2-306 of Title 47 of the Oklahoma Statutes as the surviving spouse of more than one member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, or the Oklahoma Law Enforcement Retirement System. The surviving spouse of more than one member shall elect which member's benefits he or she will receive.

E. Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the beneficiary of the member or to the member's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

F. Upon the death of an unmarried firefighter who has one or more children, said child or children shall receive pension benefits as provided in subsection B of this section as if the surviving spouse had died; provided, that upon the death of the firefighter, said child or children shall be entitled to have the System pay to the child's or children's trustee of a trust, whether inter vivos or testamentary, which trust provides for the receipt of the pension benefits to be held and administered for the sole benefit of said child, or if there is no trust, to the child's or children's legally appointed guardian, the pension benefits as provided in subsection B of this section in an amount not to exceed one hundred percent (100%) of said pension. The money so paid to the guardian or trustee shall be used solely for the benefit of the child and it shall be reported annually to the State Board.

Added by Laws 1977, c. 256, § 49-113, efJ. July 1, 1978. Amended by Laws 1980, c. 352, § 21, efJ. Jan. 1, 1981; Laws 1985, c. 222, § 7, em erg. efJ. July 8, 1985; Laws 1991, c. 125, § 2, emerg. efJ. April 29, 1991; Laws 1993, c. 126, § 3, em erg. efJ. May 3, 1993; Laws 1993, c. 322, § 1, emerg. efJ. June 7, 1993; Laws 1994, c. 84, § 2, efJ. July 1, 1994; Laws 1994, c. 351, § 1, efJ. July 1, 1994; Laws 1997, c. 363, § 1, emerg. efJ. June 11, 1997; Laws 1998, c. 419, § 1, efJ. July 1, 1998; Laws 2001, c. 49, § 1, emerg. efJ. April 10, 2001; Laws 2002, c. 330, § 1, efJ. July 1, 2002; Laws 2003, c. 334, § 3, emerg. efJ. May 29, 2003. Amended by Laws 2004, c. 546, § 5, efJ. July 1, 2004; Laws 2005, c. 203, § 2, emerg. efJ. May 20, 2005.

§49-113.2. Death benefit.

A. Upon the death of an active or retired member, the System shall pay to the surviving spouse of the member if the surviving spouse has been married to the firefighter for thirty (30) continuous months preceding the member's death provided a surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for a participating municipality shall not be subject to the marriage limitation for survivor benefits, or if there is no surviving spouse or no surviving spouse meeting the requirements of this section, the System shall pay to the designated recipient or recipients of the member, or if there is no designated recipient or if the designated recipient predeceases the member, to the estate of the member, the sum of Four Thousand Dollars (\$4,000.00) for those active or retired members who died prior to July 1, 1999. For those active or retired members who die on or after July 1, 1999, the sum shall be Five Thousand Dollars (\$5,000.00). The benefit payable pursuant to this subsection shall be deemed, for purposes of federal income taxation, as life insurance proceeds and not as a death benefit if the Internal Revenue Service approves this provision pursuant to a private letter ruling request which shall be submitted by the board of trustees of the System for that purpose.

B. Upon the death of a member who dies leaving no living designated recipient or having designated the member's estate as recipient, the System may pay any applicable death benefit which may be subject to probate, in an amount of Five Thousand Dollars (\$5,000.00), to the heir or heirs of the member without the intervention of a probate court or probate procedures.

C. Before any applicable probate procedure may be waived, the System must be in receipt of the member's proof of death and the following documents from those persons claiming to be the legal heirs of the deceased member:

1. The member's last will and testament if available;
2. An affidavit or affidavits of heirship which must contain:

a. the names and signatures of all claiming heirs to the deceased member's estate including the claiming heirs' names, relationship to the deceased member, current addresses and current telephone numbers,

b. a statement or statements by the claiming heirs that no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction,

c. a statement that the value of the deceased member's entire probate estate, less liens and encumbrances, does not exceed Ten Thousand Dollars (\$10,000.00), including the payment of benefits from the System, and

d. a statement by each individual claiming heir identifying the amount of personal property that the heir is claiming from the System or the amount the heir agrees to be paid to another person, and that the heir has been notified of, is aware of and consents to the identified claims of all the other claiming heirs of the deceased member pending with the System;

3. A written agreement or agreements signed by all claiming heirs of the deceased member which provides that the claiming heirs release, discharge and hold harmless the System from any and all liability, obligations and costs which it may incur as a result of making a payment to any of the deceased member's heirs;

4. A corroborating affidavit from an individual other than a claiming heir, who was familiar with the affairs of the deceased member; and

5. Proof that funeral and burial expenses of the deceased member have been paid or provided for. D. The System shall retain complete discretion in determining which requests for probate waiver may be granted or denied, for any reason. Should the System have any questions as to the validity of any document presented by the claiming heirs, or as to any statement or assertion contained therein, the probate requirements provided for in Section 1 et seq. of Title 58 of the Oklahoma Statutes shall not be waived.

E. After paying any death benefits to any claiming heirs as provided pursuant to this section, the System is discharged and released from any and all liability, obligation and costs to the same extent as if the System had paid a personal representative holding valid letters testamentary issued by a court of competent jurisdiction. The System is not required to inquire into the truth of any matter specified in this section or into the payment of any estate tax liability.

F. The provisions of this section shall not be subject to qualified domestic orders as provided in subsection B of Section 49-126 of this title.

G. 1. For purposes of this section, if a person makes a qualified disclaimer with respect to the death benefit provided for in subsection A of this section, this section shall apply with respect to such death benefit as if the death benefit had never been transferred to such person.

2. For purposes of this subsection, the term "qualified disclaimer" means an irrevocable and unqualified refusal by a person, including but not limited to the surviving spouse of the deceased member, to accept an interest in the death benefit provided for in subsection A of this section, but only if:

a. such refusal is in writing,

b. such writing is received by the System not later than the date which is nine (9) months after the date of death of the deceased member,

c. such person has not accepted the death benefit provided for in subsection A of this section, and d. as a result of such refusal, the death benefit provided for in subsection A of this section passes without any direction on the part of the person making the disclaimer and passes first, to the organization providing funeral and burial services for the deceased member or, if the cost of the funeral and burial services for the deceased member has already been paid, to the person or persons other than the person making the disclaimer as further provided for in this section.

Added by Laws 1987, c. 236, § 146, emerg. efJ. July 20, 1987. Amended by Laws 1994, c. 300, § 2, efJ. July 1, 1994; Laws 1994, c. 351, § 2, efJ. July 1, 1994; Laws 1996, c. 291, § 1, efJ. July 1, 1996; Laws 1999, c. 167, § 1, efJ. July 1, 1999; Laws 2001, c. 49, § 2, emerg. efJ. April 10, 2001; Laws 2002, c. 352, § 1, efJ. July 1, 2002.

§49-114. Members entitled to benefits for disability or loss of life.

Any member serving in any capacity in a regularly constituted fire department of a municipality of this state who shall become physically or mentally disabled as provided in Section 49-109 of this title, or shall lose his life as provided in Section 49-112 of this title, where said disability or loss of life was occasioned in fighting or preventing fires or in carrying out any order or direction of the chief or acting chief of said department shall be entitled to all of the benefits authorized by said sections.

Added by Laws 1977, c. 256, § 49-114, efJ. July 1, 1978; Laws 1980, c. 352, § 23, efJ. Jan. 1, 1981; Laws 1992, c. 390, § 2, emerg. efJ. June 9, 1992.

§49-116. Physical performance/agility test and examination - Retired disabled persons.

A. All candidates being considered for a position of a paid firefighter shall pass the required pre-employment offer physical performance/agility test based on standards established by the State Board; provided that the time between the administration of the physical performance/agility test approval for membership in the System by the Executive Director and the candidate's actual hire date by the participating municipality is less than twelve (12) months, provided further that a volunteer firefighter who passes an agility test at the time he or she is enrolled as a firefighter in a combination paid and volunteer fire department shall not be required to take a second agility test at the time of appointment as a paid firefighter in the same fire department. After review of a candidate's physical performance/agility test presented to the System by a participating municipality or its fire department, the Executive Director may require that a second physical performance/agility test be administered to said candidate by and under the supervision of the Executive Director. Successful completion of the second physical performance/agility test shall be required before said candidate's application for membership in the System can be approved.

B. The State Board shall require that any candidate applying for entrance as a member of the System, who has been offered a position of a paid firefighter and before entering the employment of a participating municipality as a paid firefighter, must successfully complete a physical examination, as promulgated by the administrative rules established by the State Board, in order to participate and qualify to receive any benefits from the System; provided that when the System receives the information necessary for entrance into the System, including written notice from the System's physician that the candidate has met the minimum medical requirements for entrance, the Executive Director shall have the authority to approve an entrance date for the candidate no earlier than the date all the necessary information for entrance is received or the actual hire date whichever is later; provided that the time between the administration of the physical examination approval for membership in the System by the Executive Director and the candidate's actual hire date by the participating municipality is less than six (6) months. All candidates shall be of good moral character, free from deformities, mental or physical conditions, disease and alcohol or drug addiction, which would prohibit a candidate from performing duties as a firefighter. The State Board shall have the authority to deny or revoke the membership of a candidate submitting false information in such candidate's membership application and shall have final authority in determining eligibility for membership pursuant to the provisions of this article. This subsection shall not apply to any person who terminates employment with a participating municipality as a paid firefighter and is reemployed by the participating municipality or employed by another participating municipality within six (6) months of such termination, unless such person was terminated for medical reasons.

C. Any person retired for disability under this article may be summoned before the State Board herein provided for, any time hereafter, and shall submit himself thereto for examination as to his fitness

for duty, and shall abide the decision and order of the State Board with reference thereto; and all members of the fire department, who may be retired under the provisions of this article, shall report to some physician designated by the State Board when so retired, as required by the State Board.

Added by Laws 1977, c. 256, § 49-1 [6, eff. July], 1978. Amended by Laws 1980, c. 352, § 25, eff. Jan. 1, 1981; Laws 1982, c. 320, § 3, operative July, 1982; Laws 1992, c. 390, § 3, em. eff. June 9, 1992; Laws 2000, c. 327, § 1, eff. July, 2000; Laws 2002, c. 398, § 5, eff. July, 2002; Laws 2003, c. 128, § 6, eff. July, 2003.

§49-117. Forfeiture of pensions and allowances.

When any person who shall have received any benefits from the System shall fail to report himself for examination for duty as required herein, unless excused by the State Board, or shall disobey the requirements of said State Board under this article, in respect to said examination or duty, then the State Board shall order that such pension or allowance as may have been granted to such person shall immediately cease, and such person shall receive no further pension or allowance or benefit under this article.

Added by Laws 1977, c. 256, § 49-1 17, eff. July, 1978; Laws 1978, c. 280, § 1, eff. July, 1978; Laws 1980, c. 352, § 26, eff. Jan. 1, 1981.

§49-117.1. Termination of service before normal retirement date - Refunds - Vested benefits - Retirement annuity - Rejoining System.

A member who terminates service before normal retirement date, other than by death or disability shall, upon application filed with the State Board, be refunded from the Fund an amount equal to the accumulated contributions the member has made to the Fund, but excluding any interest or any amount contributed by the municipality or state. If a member has completed ten (10) years of credited service at the date of termination, the member may elect a vested benefit in lieu of receiving the member's accumulated contributions.

If the member who has completed ten (10) or more years of credited service elects the vested benefit, the member shall be entitled to a monthly retirement annuity commencing on the date the member reaches fifty (50) years of age or the date the member would have had twenty (20) years of credited service had the member's employment continued uninterrupted, whichever is later. The annual amount of such retirement annuity shall be equal to two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of credited service. The death benefits provided for in this article shall not apply to any member retiring under the provisions of this section.

If a member who terminates employment and elects a vested benefit dies prior to being eligible to receive benefits, the member's beneficiary shall be entitled to the member's normal monthly retirement benefit on the date the deceased member would have been eligible to receive the benefit.

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

Effective January 1, 2002, lump-sum payments for repayment of any amounts received because of a member's prior termination with interest may be repaid by a trustee-to-trustee transfer from a Code Section 403(b) annuity, a governmental Code Section 457 plan, and/or a Code Section 401(a) qualified plan.

A fire fighter shall not be permitted to withdraw from the System while employed as a fire fighter in a participating municipality.

Added by Laws 1980, c. 352, § 27, eff. Jan. 1, 1981. Amended by Laws 1985, c. 222, § 8, em. eff. July 8, 1985; Laws 1987, c. 236, § 147, emerg. eff. July 20, 1987; Laws 1990, c. 340, § 1, eff. July, 1990; Laws 1993, c. 126, § 4, emerg. eff. May 3, 1993; Laws 2002, c. 398, § 6, eff. July, 2002; Laws 2003, c. 128, § 7, eff. July, 2003.

§49-117.2. Transfer of credited service from or to other retirement system.

A. A paid member of the Oklahoma Firefighters Pension and Retirement System may receive up to five (5) years of credited service accumulated by the member while a member of the Oklahoma Police Pension and Retirement System, the Oklahoma Law Enforcement Retirement System, the Teacher's Retirement System of Oklahoma or the Oklahoma Public Employees Retirement System, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. To receive the service credit prior to January 1, 1991, the member shall pay a five percent (5%) contribution and interest of not to exceed five percent (5%), as may be required by the State Board for each year of service transferred pursuant to this section. Effective January 1, 1991, to receive the service credit, the member shall pay the amount determined by the State Board pursuant to Section 3 of this act. The transferred credited service of the member from another state retirement system shall not alter the member's normal retirement date or vesting requirements. The transferred credited service will be added after the member reaches normal retirement date.

B. The Oklahoma Firefighters Pension and Retirement System shall transfer credited service to another state retirement system upon request of former paid members. Upon transfer, the former member shall have forfeited all rights in the Oklahoma Firefighters Pension and Retirement System. Employee and city contributions of the former municipal retirement systems prior to January 1, 1981, are not transferable.

Added by Laws 1987, c. 236, § 147, em erg. eff. July 20, 1987. Amended by Laws 1990, c. 340, § 2, eff. July 1, 1990.

§49-117.3. Transferred credited service - Computation of purchase price.

A. The State Board shall adopt rules for computation of the purchase price for transferred credited service. These rules shall base the purchase price for each year purchased on the actuarial cost of the incremental projected benefits to be purchased. The purchase price shall represent the present value of the incremental projected benefits discounted according to the member's age at the time of purchase. Incremental projected benefits shall be the difference between the projected benefit said member would receive without purchasing the transferred credited service and the projected benefit after purchase of the transferred credited service computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

B. In the event that the member is unable to pay the purchase price provided for in this section by the due date, the State Board shall permit the members to amortize the purchase price over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the State Board permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the State Board for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance. The State Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

C. Members who pay the purchase price by the due date may make payment by:

1. A trustee-to-trustee transfer from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(I)(A), and/or a Code Section 401(a) qualified plan; or

2. A direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained

by an eligible employer described in Code Section 457(e)(1)(A), a Code Section 401 (a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA). Roth IRAs and Coverdell Education Savings Accounts shall not be used to purchase transferred credited service.

The State Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

D. Members amortizing the purchase price and making payments by payroll deduction, shall have the option of making a cash lump-sum payment for the balance of the actuarial purchase price with interest due through the date of payment by:

1. A trustee-to-trustee transfer from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), and/or a Code Section 401(a) qualified plan; or

2. A direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA). Roth IRAs and Coverdell Education Savings Accounts shall not be used to purchase transferred credited service.

The State Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

Added by Laws 1990, c. 340, § 3, eff July 1, 1990. Amended by Laws 1993, c. 322, § 2, emerg. eff June 7, 1993; Laws 2002, c. 398, § 7, eff July 1, 2002; Laws 2003, c. 128, § 8, eff July 1, 2003. Amended by Laws 2004, c. 546, § 6, eff July 1, 2004; Laws 2005, c. 203, § 3, emerg. eff May 20, 2005.

§49-118. Additional powers of State Board.

The State Board shall, in addition to other powers herein granted, have power, to wit:

1. To compel witnesses to attend and testify before it upon all matters connected with the operations of this article, and in the same manner as is or may be provided by law for the taking of testimony before notaries public; and its president or any member of said board may administer oaths to such witnesses;

2. To provide for the payment from the Fund of all its necessary expenses and printing; and

3. To make all rules and regulations needful for its guidance in conformity with the provisions of this article.

Added by Laws 1977, c. 256, § 49-118, eff July 1, 1978; Laws 1980, c. 352, § 28, eff Jan. 1, 1981.

§49-119. Tax on insurance premiums for benefit of fund - Appropriations.

There is hereby appropriated and set aside for the use and benefit of the Fund, a percentage on all taxes collected on premiums collected by all insurance companies and other entities which are subject to the premium tax levied pursuant to Section 624 of Title 36 of the Oklahoma Statutes, after all returned premiums and other credits are deducted as provided by Sections 312.1 and 624 through 626 of Title 36 of the Oklahoma Statutes. In addition, the State of Oklahoma shall make such appropriation as is necessary to assure the retirement benefits provided by this article.

Added by Laws 1977, c. 256, § 49-119, eff July 1, 1978; Amended by Laws 1980, c. 352, § 29, eff Jan. 1, 1981; Laws 1988, c. 83, § 1, emerg. eff March 25, 1988.

§49-120. Account oftax paid by insurance companies - Warrants.

The Insurance Commissioner shall keep a separate account of the amount of tax paid by all insurance companies and other entities subject to the premium tax levied pursuant to Section 624 of Title 36 of the Oklahoma Statutes, as provided by Sections 312.1 and 624 through 626 of Title 36 of the Oklahoma Statutes, and in his report to the State Auditor and Inspector and the State Treasurer he shall certify the

exact amount. The State Treasurer shall issue a warrant to the State Board, for the benefit of the System, for the amount of which the Fund shall be entitled and shall deliver the warrant to the State Board.

Added by Laws 1977, c. 256, § 49-120, eff July 1, 1978; Amended by Laws 1978, c. 280, §2, eff Jan. 1, 1979; Laws 1980, c. 352, § 30, eff Jan. 1, 1981; Amended by Laws 1985, c. 222, § 9, em erg. eff July 8, 1985; Laws 1988, c. 83, § 2, emerg. eff March 25, 1988.

§49-121. Amount of first warrant pursuant to Section 49-120 - Eligibility of receive funds.

The amount of the first warrant drawn by the State Treasurer pursuant to Section 49-120 of this title shall never be less than Five Hundred Dollars (\$500.00). Any municipality having a firefighting apparatus of a value of not less than One Thousand Dollars (\$1,000.00), may qualify and receive the benefits of the funds made available by the provisions of Section 49-120 of this title, by meeting all the other requirements thereof.

Added by Laws 1977, c. 256, § 49-121, eff July 1, 1978; Amended by Laws 1978, c. 280, § 3, eff Jan. 1, 1979; Laws 1980, c. 352, § 31, eff Jan. 1, 1981.

§49;122. Deductions from salaries of fire department members - Picked up contributions - Deposit of funds - City charters superceded.

A. Each municipality having a paid member of a fire department shall deduct monthly from the salary of each member of the fire department of such municipality an amount equal to eight percent (8%) of the actual paid gross salary of each member of the fire department. The deduction shall be considered the minimum deduction. At the option of the municipality, the municipality may pay all or any part of the member's required contribution. The members of a fire department, by a majority vote of its paid members, may vote to increase the amount of the deduction. The treasurer of each municipality shall deduct the authorized deductions from the salary of each paid member of the fire department. The treasurer of the municipality shall deposit within ten (10) days from each ending payroll date in the System the amount deducted from the salary of each member of the fire department. Amounts deducted from the salary of a member and not paid to the System after thirty (30) days from each ending payroll date shall be subject to a monthly late charge of one and one-half percent (1 1/2%) of the unpaid balance to be paid by the municipality to the System.

Each municipality shall pick up under the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986 and pay the contribution which the member is required by law to make to the System for all compensation earned after December 31, 1988. Although the contributions so picked up are designated as member contributions, such contributions shall be treated as contributions being paid by the municipality in lieu of contributions by the member in determining tax treatment under the Internal Revenue Code of 1986 and such picked up contributions shall not be includable in the gross income of the member until such amounts are distributed or made available to the member or the beneficiary of the member. The member, by the terms of this system, shall not have any option to choose to receive the contributions so picked up directly and the picked up contributions must be paid by the municipality to the System.

Member contributions which are picked up shall be treated in the same manner and to the same extent as member contributions made prior to the date on which member contributions were picked up by the municipality. Member contributions so picked up shall be included in salary for purposes of the System.

The municipality shall pay the member contributions from the same source of funds used in paying salary to the member, by effecting an equal cash reduction in gross salary of the member, or by an offset against future salary increases, or by a combination of reduction in gross salary and offset against future salary increases.

The treasurer of each municipality shall deduct the picked up contributions from the salary of each paid member of the fire department. The treasurer of the municipality shall deposit monthly in the System the amount picked up from the salary of each member of the fire department.

B. Each municipality having a paid member of a fire department shall deposit monthly with the State Board an amount equal to the following:

1. Prior to July 1, 1991, ten percent (10%) of the total actual paid gross salaries of the members of the fire department;
2. Beginning July 1, 1991 through June 30, 1992, ten and one-half percent (10 1/2%) of the total actual paid gross salaries of the members of the fire department;
3. Beginning July 1, 1992 through June 30, 1993, eleven percent (11%) of the total actual paid gross salaries of the members of the fire department;
4. Beginning July 1, 1993 through June 30, 1994, eleven and one-half percent (11 1/2%) of the total actual paid gross salaries of the members of the fire department;
5. Beginning July 1, 1994 through June 30, 1995, twelve percent (12%) of the total actual paid gross salaries of the members of the fire department;
6. Beginning July 1, 1995 through June 30, 1996, twelve and one-half percent (12 1/2%) of the total actual paid gross salaries of the members of the fire department; and
7. Beginning July 1, 1996, thirteen percent (13 %) of the total actual paid gross salaries of the members of the fire department.

C. Each county or municipality having a volunteer member of a fire department shall deposit yearly with the State Board Sixty Dollars (\$60.00) for each volunteer member of the department.

Provided, the above-mentioned volunteer county or municipal contributions shall be reevaluated by the next scheduled actuarial study and the amounts adjusted so that in a nine-year period of time, the amounts would reflect the actuarial recommendations at that time. Any county or municipality with an income of less than Twenty-five Thousand Dollars (\$25,000.00) to its general fund during a fiscal year shall be exempt from the provisions of this subsection.

Any municipality that fails to comply with the provisions of this section shall not be entitled to its proportionate share of the Motor Fuel Excise Tax which is received through the Oklahoma Tax Commission. Any county or municipality may exceed the amount of contribution required by this section.

The provisions of this section shall supercede any city charter provision in direct conflict with this section.

Added by Laws 1977, c. 256, § 49-122, eff July 1, 1978. Amended by Laws 1980, c. 352, § 32, eff Jan. 1, 1981; Laws 1984, c. 287, § 2, operative July 1, 1984; Laws 1987, c. 236, § 149, emerg. eff July 20, 1987; Laws 1988, c. 267, § 4, operative July 1, 1988; Laws 1990, c. 340, § 4, eff July 1, 1990; Laws 1992, c. 376, § 1, eff July 1, 1992; Laws 1998, c. 299, § 2, emerg. eff May 28, 1998.

§49-122.1. Firefighters Pension and Retirement Fund - Establishment - Deposit and investment of contributions.

There is hereby established a fund to be designated as the Oklahoma Firefighters Pension and Retirement Fund. All employee and employer contributions shall be deposited in the Fund and may be invested as provided in this article.

Added by Laws 1980, c. 352, § 33, eff Jan. 1, 1981.

§49-122.2. Transfer of assets to State Board.

Any municipality having a Firefighters Pension and Retirement Fund prior to January 1, 1981, shall transfer all assets of such fund to the State Board on July 1, 1981. Assets shall be transferred in the form of cash, negotiable securities and such other specific assets as permitted by the State Board.

Added by Laws 1980, c. 352, § 33, eff Jan. 1, 1981; Amended by Laws 1985, c. 222, § 10, emerg. eff July 8, 1985.

§49-122.3. Assets of funds - Right to assets - Valuation.

The assets of the Fund shall consist of such assets and the income therefrom, including monthly contributions made to the State Board by each municipality, or property for which any of the same shall be exchanged or into which any of the same shall be converted, together with any other assets held from time to time hereunder by the State Board. All legal right, title and interest in and to the assets of the Fund shall at all times be held in trust and vested exclusively in the State Board or its nominee and no municipality shall be deemed to have severable ownership of any asset of the Fund or any right of partition or possession.

The State Board shall appraise and place valuation upon the assets of the Fund held by it as of the last business day of each month. Any assets not held by the State Board shall be appraised and valued by the Executive Director on said date.

The valuation of all assets of the Fund shall be both at cost and at the fair market value thereof, as determined by reference to the best available source or sources, in the opinion of the Executive Director and the State Board and both the Executive Director and State Board may rely on figures, or statements appearing in any reputable publication purporting to state sales prices, market quotations, values, bid and asking prices or any facts affecting values and upon the opinion of one or more persons familiar with the reasonable market value of any assets to be valued and shall incur no liability for error in any such valuation made in good faith. The reasonable and equitable decision of the Executive Director and State Board regarding the method used in determining values shall be conclusive and binding upon all persons, natural or legal, having interest, direct or indirect, in the Fund's assets.

Added by Laws 1980, c. 352, § 35, eff. Jan. 1, 1981. Amended by Laws 1985, c. 222, § 11, emerg. eff. July 8, 1985; Laws 2000, c. 327, § 12, eff. July 1, 2000.

§49-122.4. Costs and expenses - Supplies and equipment.

A. All costs and expenses for the selection and compensation of investment counselors, institutional custodian service and commissions or other costs resulting from the purchase, sale or other transfer of assets shall be paid from the fund.

B. Three percent (3%) of the funds disbursed to the State Board under the provisions of Section 312.1 of Title 36 of the Oklahoma Statutes shall be retained by the State Board for the purpose of paying all costs and expenses, other than those provided for in subsection A of this section, incurred in the operation, administration and management of the System. At the close of each fiscal year, any surplus shall be transferred to the Oklahoma Firefighters Pension and Retirement Fund.

C. The State Board is authorized to purchase such equipment and supplies as it deems necessary for the efficient operation, administration and management of the System. Payment for such equipment and supplies shall be made from the operating funds of the System.

Added by Laws 1980, c. 352, § 36, eff. Jan. 1, 1981; Laws 1981, c. 3, § 2, emerg. eff. Feb. 19, 1981; Amended by Laws 1982, c. 320, § 4, operative July 1, 1982.

§49-122.5. Operation, administration and management of System - Responsibilities.

The State Board shall be responsible for the operation, administration and management of the System.

In order to carry out the responsibilities imposed by law upon them, the State Board shall appoint such advisors, consultants, agents and employees, each of whom may be such individual, firm or corporation as shall be deemed necessary or advisable and approved by the State Board. Such individuals, firms or corporations may be retained or employed in such manner and upon such terms as shall seem appropriate and proper to the State Board, either by contract or retainer, by regular full- or part-time employment or by such other arrangements as shall be satisfactory to the State Board and shall be subject to such bonding requirements as shall be established by the State Board.

The Executive Director shall perform the duties and services indicated below and such other duties and services as may, from time to time, be requested or directed by the State Board, and who shall be responsible to the State Board and shall attend all regular meetings of the State Board.

The Executive Director shall be responsible to the State Board for the day-to-day operation of the System, and shall on behalf of the State Board:

1. Be responsible for the transmittal of communications from the State Board to the local board;
2. Receive payroll and employment reports from participating municipalities and maintain current employment, earnings and contribution data on each covered member of each participating municipality;
3. Coordinate the activities of all other advisors, consultants, agents or employees appointed by the State Board;
4. Maintain all necessary records reflecting the operation and administration of the System and submit detailed reports thereof to the State Board at each regular meeting of the State Board and at such other time or times as requested by the State Board;
5. Process all claims for payment of benefits or expenses for approval by the State Board; and
6. File on behalf of the State Board such reports or other information as shall be required by any state or federal law or regulation.

Added by Laws 1980, c. 352, § 37, efJ. Jan. 1, 1981; Amended by Laws 1982, c. 227, § 1, em. erg. efJ. May 4, 1982; Laws 1982, c. 320, § 5, operative July 1, 1982; Laws 1988, c. 321, § 8, operative July 1, 1988.

§49-122.6. Confidentiality of records.

All information, documents and copies thereof contained in a member's retirement file shall be given confidential treatment and shall not be made public by the Oklahoma Firefighters Pension and Retirement System without the prior written consent of the member to which it pertains, but shall be subject to subpoena or court order.

Added by Laws 1993, c. 353, § 3, em. erg. efJ. June 10, 1993.

§49-123. Moneys to be paid over to State Board.

All moneys provided for the System by this article shall be paid over to and received by the State Board for the use and benefit of the System.

Added by Laws 1977, c. 256, § 49-123, efJ. July 1, 1978; Amended by Laws 1980, c. 352, § 38, efJ. Jan. 1, 1981.

§49-124. Report by clerk of statistics as to fire department.

On forms supplied by the State Board, it is hereby made the duty of the clerk of each participating municipality or fire protection district in which an organized department is maintained having fire fighting apparatus of the value of One Thousand Dollars (\$1,000.00) or more, to record annually with the State Board the name of such fire department and the number of fire fighters with their names, birthdate, date of appointment and date of expiration of term of service.

Added by Laws 1977, c. 256, § 49-125, efJ. July 1, 1978; Amended by Laws 1980, c. 352, § 39, efJ. Jan. 1, 1981; Laws 1993, c. 353, § 4, emerg. efJ. June 10, 1993.

§49-126. Pensions and allowances exempt from forced sale - Assignments or transfers void- Exception of qualified domestic orders, child support orders and federal tax levy.

A. Except as otherwise provided by this section, no portion of said pension shall, either before or after its order of distribution by the State Board to such disabled members of said fire department, or the surviving spouse, alternate payee as defined in subsection B of this section, or guardian of such minor child or children, to the deceased or retired member of such department, be held, seized, taken, subjected to or detained or levied on by virtue of any attachment, execution, injunction, writ interlocutory or other order or decree, or any process or proceeding, whatever, issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damages, claim, demand or judgment against such member, or his or her surviving spouse, alternate payee, or the guardian of said minor child or

children of any deceased member, nor shall said fund or any claim thereto be directly or indirectly assigned and any attempt to assign or transfer the same shall be void; but the funds shall be held, kept, secured and distributed for the purpose of pensioning the persons named in this article, and for no other purpose whatever. Notwithstanding the foregoing, effective August 5, 1997, the State Board may approve any offset of a member's benefit to pay a judgment or settlement against a member for a crime involving the System, for a breach of the member's fiduciary duty to the System, or for funds or monies incorrectly paid to a member or beneficiary by mistake, provided such offset is in accordance with the requirements of Section 401 (a)(13) of the Internal Revenue Code of 1986, as amended.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of this state which relates to the provision of marital property rights to an alternate payee and which creates or recognizes the existence of the right of an alternate payee and assigns to an alternate payee the right to receive a portion of the benefits payable with respect to a member of the System.

3. The term "alternate payee" means any spouse, former spouse, minor or disabled child or children, or other dependent of the member who is recognized by a domestic relations order as having a right to receive benefits payable with respect to a member of the System.

4. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

5. A qualified domestic order is valid and binding on the State Board and the related member only if it meets the requirements of this subsection.

6. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

7. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,
- b. does not require the System to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

8. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date of the related member.

9. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the earlier of the death of the related member or the death of the alternate payee. Upon the death of the alternate payee, the assignment to the alternate payee of the right to receive a portion of the benefits payable with respect to the member shall cease and the payments of benefits to the member shall be reinstated.

10. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

11. The Oklahoma Firefighters Pension and Retirement Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

12. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the State Board pursuant to this subsection in order to continue receiving his or her benefit.

C. The provisions of subsection A of this section shall not apply to a Child Support Enforcement Division order for a support arrearage pursuant to Section 240.23 of Title 56 of the Oklahoma Statutes and current child support payments made pursuant to a valid court order.

D. The provisions of subsection A of this section shall not apply to a federal tax levy made pursuant to Section 6331 of the Internal Revenue Code of 1986, as amended, and the collection by the United States on a judgment resulting from an unpaid tax assessment.

Added by Laws 1977, c. 256, § 49-126, eff July], 1978. Amended by Laws 1980, c. 352, § 40, eff Jan.], 1981; Laws 1993, c. 322, § 3, em erg. eff June 7, 1993; Laws 1998, c. 198, § 2, eff Nov.], 1998; Laws 1999, c. 193, § 5, eff July], 1999; Laws 2000, c. 327, § 13, eff July 1, 2000; Laws 2003, c. 334, § 4, emerg. eff May 29, 2003. Amended by Laws 2004, c. 546, § 7, eff July 1, 2004.

§49-128. Appeals.

Any person possessing the qualifications required and provided for under this article, who deems himself aggrieved by a decision of the State Board on his or her claim for pension, either in rejecting his or her claim or in the amount allowed by the Board, or participating municipality, may appeal from such decision by filing a petition in the Oklahoma County District Court within thirty (30) days from the date of such decision.

Added by Laws 1977, c. 256, § 49-128, eff July], 1978. Amended by Laws 1980, c. 352, § 4], eff Jan.], 1981; Laws 1997, c. 247, § 2, eff July], 1997; Laws 1999, c. 193, § 6, eff July], 1999.

§49-132. Use of moneys for payment of pensions and other benefits and administration of System.

Money paid to the State Board for the benefit of the System shall, unless otherwise provided by law relating to the apportionment and payment of such moneys to the several municipalities of this state, be used solely for the payment of such pensions and other benefits to retired members of such fire department, injured or otherwise disabled members of such fire department, and beneficiaries of deceased members of such fire department, and such expenses of administering the System, as may be authorized by law.

Added by Laws 1977, c. 256, § 49-132, eff July], 1978; Amended by Laws 1980, c. 352, § 43, eff Jan.], 1980.

§49-133. Use of money for unauthorized purposes.

The Insurance Commissioner may examine the books and financial records of the State Board and when a written complaint is made to him under oath that any part of such money has been, or is being, expended or applied for purposes other than those authorized by Section 49-132 of this title, it shall be his duty to examine such books and financial records to determine if such complaint is true and if such an examination discloses that any such money has been, or is being, expended or applied for purposes other than those authorized, it shall be his duty to report that fact to the Governor. Upon receiving such report, the Governor shall direct the State Treasurer not to issue any warrants to the State Board for the municipality involved until the Insurance Commissioner reports to the Governor that all monies wrongfully expended or applied have been replaced; provided that, the Governor may take such further action as the situation may demand.

Added by Laws 1977, c. 256, § 49-133, eff July], 1978; Amended by Laws 1978, c. 280, § 4, eff Jan.], 1979; Laws 1980, c. 352, § 44, eff Jan.], 1981.

§49-134. Mandatory retirement at age sixty-five - Exception.

No person, who is eligible for retirement under the laws of this state pertaining to the System, shall serve in any capacity as a member of any fire department of any municipality of this state after having attained the age of sixty-five (65) years, provided, however, no person shall be required to retire because of the provisions of this section until such person shall have completed twenty (20) years service.

Added by Laws 1977, c. 256, § 49-134, efJ. July 1, 1978; Amended by Laws 1980, c. 352, § 45, efJ. Jan. 1, 1981.

§49-135. Employment of persons over forty-five prohibited - Exceptions - Reemployment.

No person shall be employed in a fire department who has reached the age of forty-five (45) years, unless it appears he shall become eligible for retirement at the age of sixty-five (65) years, or unless he be retired from a municipal fire department in the State of Oklahoma. This section shall not apply to professional engineers, or to persons employed as technical specialists on a temporary basis. The State Board shall be authorized to establish the maximum age, within the limits herein prescribed, over which an applicant may not be considered for initial employment, but no person shall be prohibited from making application for reemployment and having such reemployment application considered merely because of his age, provided that such person be under the age of forty-five (45) years, and provided further, that such reemployment shall be with the consent of the fire chief of such municipality.

Added by Laws 1977, c. 256, § 49-135, efJ. July 1, 1978; Amended by Laws 1980, c. 352, § 46, efJ. Jan. 1, 1981.

§49-136 Increase or decrease in pensions based on changes in base salaries

Any person receiving a pension who became a member of the System prior to January 1, 1981, which was based upon a percentage of the average salary paid to him during the last thirty (30) or sixty (60) months of his service, shall have such pension, or the pension of his or her surviving spouse as the case may be, increased or decreased by one-half (1/2) of all increases or decreases which shall occur in the salary of the regular firefighters in the municipality from which said person is receiving a pension; provided that said pension shall never be reduced below the original pension paid to such person for that purpose. The term "regular firefighters" shall for this purpose be defined as salaried firefighters who have reached their maximum salary as "privates" in their departments and have not been promoted to a position of rank. It shall be a violation of this article to establish a special classification for the purpose of evading the intent of this section.

Added by Laws 1977, c. 256, §49-136, ell JuZv 1, 1978; Amended by Laws 1980, c. 352, §47, efJ. Jan. 1, 1981; Repealed by Laws 1983, c. 143, §8, emerg. efJ. May 26, 1983; Reinstated by federal court order for those retired or had 20 years of service as of May 26, 1983.

§49-138. Military service credit.

A. Any member of a regularly constituted fire department of any municipality who is now serving or may hereafter serve in the Armed Forces of the United States whether such service is voluntary or involuntary, who shall have been a member of such fire department at the time of entering such service, shall be entitled to have the whole of the time of such service applied under the provisions of Section 49-106 of this title, so far as the same applies to a service pension; provided further, that the municipality shall continue its payment into said pension fund, to the same force and effect as though the member were in the actual service of such fire department; provided, that any person who is eligible for such service but who shall have volunteered for military or naval service for a period not to exceed five (5) years shall likewise be entitled to all of the benefits of Sections 49-138 through 49-142 of this title for the full period of such service or enlistment; provided further, that only one such period of voluntary service shall be considered hereunder. If such person shall reenlist, unless he is required to do so by law, he shall not thereafter be entitled to the provisions of this subsection. The provisions of this subsection shall not apply where any such person dies during the period of said service or enlistment,

and shall not entitle the surviving spouse or children to any benefits, and shall not apply to any member who shall have served on active duty (including initial active duty) for training purposes only and/or inactive duty training.

B. Effective February 1, 1997, credited service received pursuant to this section or credited service for wartime military service received as otherwise provided by law shall be used in determining the member's retirement benefit but shall not be used in determining years of service for retirement, vesting purposes or eligibility for participation in the Oklahoma Firefighters Deferred Option Plan. For a member of the System hired on or after July 1, 2003, if the military service credit authorized by this section is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other retirement system created pursuant to the Oklahoma Statutes and the member may receive credit for such service only in the retirement system from which the member first retires.

C. A member who retires or elects to participate in the Oklahoma Firefighters Deferred Option Plan on or after July 1, 1998, shall be entitled to prior service credit, not to exceed five (5) years, for those periods of military service on active duty prior to membership in the Oklahoma Firefighters Pension and Retirement System.

For purposes of this subsection, "military service" means service in the Armed Forces of the United States by honorably discharged persons during the following time periods, as reflected on such person's Defense Department Form 214, as follows:

1. During the following periods, including the beginning and ending dates, and only for the periods served, from:
 - a. April 6, 1917, to November 11, 1918, commonly referred to as World War I,
 - b. September 16, 1940, to December 7, 1941, for members of the 45th Division,
 - c. December 7, 1941, to December 31, 1946, commonly referred to as World War II,
 - d. June 27, 1950, to January 31, 1955, commonly referred to as the Korean Conflict or the Korean War,
 - e. February 28, 1961, to May 7, 1975, commonly referred to as the Vietnam era, except that:
 - (1) for the period from February 28, 1961, to August 4, 1964, military service shall only include service in the Republic of Vietnam during that period, and
 - (2) for purposes of determining eligibility for education and training benefits, such period shall end on December 31, 1976, or
 - f. August 1, 1990, to December 31, 1991, commonly referred to as the Gulf War, the Persian Gulf War, or Operation Desert Storm, but excluding any person who served on active duty for training only, unless discharged from such active duty for a service-connected disability;

2. During a period of war or combat military operation other than a conflict, war or era listed in paragraph 1 of this subsection, beginning on the date of Congressional authorization, Congressional resolution, or Executive Order of the President of the United States, for the use of the Armed Forces of the United States in a war or combat military operation, if such war or combat military operation lasted for a period of ninety (90) days or more, for a person who served, and only for the period served, in the area of responsibility of the war or combat military operation, but excluding a person who served on active duty for training only, unless discharged from such active duty for a service-connected disability, and provided that the burden of proof of military service during this period shall be with the member, who must present appropriate documentation establishing such service.

D. An eligible member pursuant to subsection C of this section shall include only those persons who shall have served during the times or in the areas prescribed in subsection C of this section, and

only if such person provides appropriate documentation in such time and manner as required by the System to establish such military service prescribed in this section, or for service pursuant to division (1) of subparagraph e of paragraph 1 of subsection C of this section, those persons who were awarded service medals, as authorized by the United States Department of Defense as reflected in the veteran's Defense Department Form 214, related to the Vietnam Conflict for service prior to August 5, 1964. The provisions of subsection C of this section shall include military retirees, whose retirement was based only on active service, that have been rated as having twenty percent (20%) or greater service-connected disability by the Veterans Administration or the Armed Forces of the United States. The provisions of subsection C of this section shall not apply to any person who shall have served on active duty for training purposes only unless discharged from active duty for a service-connected disability.

E. Notwithstanding any provision herein to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986, which is in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994, (USERRA) as amended. The municipality's contributions to the System for a member covered by USERRA are due when such a member makes up his or her contributions that were missed due to his or her qualified military service.

F. Members or beneficiaries shall make application to the System for credited service related to wartime military service. Interest on additional benefits related to wartime military service owed by the System to a retired member or beneficiary as provided by law shall cease accruing one (1) year after the effective date the additional benefits are payable by the System or July 1, 2000, whichever is later, if the member has not applied to the System for credited service related to such wartime military service. *Added by Laws 1977, c. 256, § 49-138, eff. July 1, 1978. Amended by Laws 1991, c. 125, § 3, emerg. eff. April 29, 1991; Laws 1997, c. 237, § 1, emerg. eff. May 23, 1997; Laws 1998, c. 192, § 1, eff. July 1, 1998; Laws 1999, c. 193, § 7, eff. July 1, 1999; Laws 2000, c. 327, § 14, eff. July 1, 2000; Laws 2003, c. 406, § 1, eff. July 1, 2003. Amended by Laws 2004, c. 302, § 1, emerg. eff. May 13, 2004; Laws 2005, c. 203, § 4, emerg. eff. May 20, 2005.*

§49-139. Persons carried on roll of members during military absence - Advancements and promotions - Reinstatement - Reduction of compensation or dismissal.

Any such person shall be carried on the roll of members of the fire department during such absence and shall be entitled to all advancements, seniority and promotions under the rules, regulations and customs of the fire department, during his said absence, and all advancements and promotions made in the fire department during his absence in such military or naval service to which he would have been entitled shall only be filled temporarily and shall be subject to the rights of such person who shall, within ninety (90) days after he has been honorably discharged or received a certificate as a reserve component of the land or naval services, have the right to make application for reinstatement, and he shall have preference over any and all members of the fire department who have been employed by such municipality subsequent to his entering said military or naval service, and upon such application it shall be the duty of the executive head of the fire department to reinstate such person as an actual member of the fire department with all rights of advancements and promotions, provided, he has not been mentally or physically disabled since last serving in such fire department and is able to pass the usual and customary physical and mental examination then required by the State Board for entry into said fire department,

and he shall not thereafter be subject to reduction of compensation or dismissal without just cause.

Added by Laws 1977, c. 256, § 49-139, eff. July 1, 1978; Amended by Laws 1980, c. 352, § 48, eff. Jan. 1, 1981.

§49-140. Rejection for reinstatement - Examination by physicians.

If any person feels aggrieved by the findings of the physician giving the examination provided for in the preceding section, he may by written notice served upon the head of the fire department within thirty (30) days after he has been rejected for reinstatement, name one licensed physician to act with said examining physician, and the two said physicians shall, within eight (8) days thereafter, select a third

physician, and the three said physicians shall, within ten (10) days thereafter, jointly examine said person, and within five (5) days thereafter certify to the State Board their findings. The findings of any two of said physicians shall be binding on all parties as to the physical and mental conditions of such person. If the two examining physicians first selected are unable to agree upon a third, then the presiding judge of the Oklahoma County district court shall name the third physician.

Added by Laws 1977, c. 256, § 49-140, efJ. July 1, 1978; Amended by Laws 1980, c. 352, § 49, efJ. Jan. 1, 1981.

§49-141. Participation in independent insurance or other benefits.

Any such person shall be entitled to participate in any independent insurance or other benefits offered by such municipality, or its fire department or members thereof, to the same effect as though he were in the actual service of such fire department.

Added by Laws 1977, c. 256, § 49-141, efJ. July 1, 1978.

§49-142. Refusal to comply with act - Petition to district court - District attorney to represent applicant - Fees and costs.

In case a municipality, or official thereof, refuses to comply with the provisions of Sections 49-138 through 49-142 of this title, then any person entitled to the benefits hereof may file a petition in the Oklahoma County district court, without cost deposit, to specifically require such municipality, or official thereof, to comply with said provisions, and, as incident thereto, to compensate said person for any loss of wages or benefits suffered by such refusal. The court shall order a speedy hearing in any such case and shall advance it on the calendar. Upon application to the Oklahoma District Attorney by any person claiming to be entitled to the benefits of the provisions hereof, such District Attorney, if reasonably satisfied that the person so applying is entitled to such benefits, shall appear and act as attorney for such person in the amicable adjustment of the claim or in the filing of the petition and the prosecution thereof. The action in the district court shall be brought within ninety (90) days from the date of the refusal of the municipality, or its representative, to comply with the provisions of this act. No fees or court costs shall be taxed against the person so applying.

Added by Laws 1977, c. 256, § 49-142, efJ. July 1, 1978; Amended by Laws 1980, c. 352, § 50, efJ. Jan. 1, 1981.

§49-143. Increase in pension benefits.

Any person receiving benefits from the Oklahoma Firefighters Pension and Retirement System as of June 30, 1986, shall receive a six percent (6%) increase in said benefits on July 1, 1986. The provisions of this section shall not apply to members receiving benefits pursuant to the provisions of Section 49-101 of this title.

Added by Laws 1985, c. 222, § 12, emerg. efJ. July 8, 1985. Amended by Laws 1986, c. 187, § 2, operative July 1, 1986.

§49-143.1. Increase in benefits - Amount - Offset.

A. Except as provided in subsection B of this section and except for persons receiving benefits pursuant to Section 49-101 of this title, effective July 1, 2002, any person receiving benefits from the Oklahoma Firefighters Pension and Retirement System as of June 30, 2001, who continues to receive benefits on or after July 1, 2002, shall receive a five percent (5%) increase in said benefits on July 1, 2002.

B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 49-136 of this title after June 30, 2000, shall be used to offset the increase in benefits provided in subsection A of this section.

C. Effective July 1, 2002, any persons receiving benefits pursuant to Section 49-101 of this title shall each receive a benefit equal to Six Dollars and sixty-nine cents (\$6.69) for each year of credited service not to exceed thirty (30) years of service.

Added by Laws 1988, c. 267, § 5, operative July 1, 1988. Amended by Laws 1990, c. 340, § 5, eff July 1, 1990; Laws 1994, c. 383, § 3, eff July 1, 1994; Laws 1998, c. 317, § 1, eff July 1, 1998; Laws 1999, c. 228, § 1, eff July 1, 1999; Laws 2000, c. 377, § 1, eff July 1, 2000; Laws 2002, c. 394, § 1, eff July 1, 2002.

§49-143.2. Additional retirement benefit.

A. The Oklahoma Firefighters Pension and Retirement System shall pay to its retirees, who retire not later than June 30, 1997, or their beneficiaries, from assets of the retirement system, an additional amount, for the fiscal year ending June 30, 1998, based upon the number of years of credited service upon which the retirement benefit of the member was computed as follows:

1. For paid firefighters:

- a. One Hundred Fifty Dollars (\$150.00) for at least ten (10), but no more than fourteen (14) years of service,
- b. Three Hundred Dollars (\$300.00) for at least fifteen (15), but no more than nineteen (19) years of service,
- c. Four Hundred Fifty Dollars (\$450.00) for at least twenty (20), but no more than twenty-four (24) years of service, and
- d. Six Hundred Dollars (\$600.00) for twenty-five (25) or more years of service.

2. For volunteer firefighters:

- a. Seventy-five Dollars (\$75.00) for at least ten (10), but no more than fourteen (14) years of service,
- b. One Hundred Fifty Dollars (\$150.00) for at least fifteen (15), but no more than nineteen (19) years of service,
- c. Two Hundred Twenty-five Dollars (\$225.00) for at least twenty (20), but no more than twenty-four (24) years of service, and
- d. Three Hundred Dollars (\$300.00) for twenty-five (25) or more years of service;

3. One Hundred Fifty Dollars (\$150.00) for a paid firefighter with less than ten (10) years of service who received a disability retirement; and

4. Seventy-five Dollars (\$75.00) for a volunteer firefighter with less than ten (10) years of service who received a disability retirement.

B. For purposes of subsection A or B of this section, months of credited service in excess of a whole number of years shall be disregarded for purposes of determining the applicable payment amount.

C. The payment authorized by this section shall be distributed not later than August 1, 1997.

D. The payment authorized by this section shall not be a recurring benefit and shall only be made for the fiscal year ending June 30, 1998, and for no other fiscal year.

E. If a retiree has multiple beneficiaries, the amount prescribed by subsection A of this section shall be divided equally among the beneficiaries on a per capita basis.

Added by Laws 1997, c. 384, § 19, eff. July 1, 1997.

§49-143.3. Benefit adjustment - Restoration of Initial COLA Benefit.

A. For purposes of this section the following definitions shall apply:

1. "Initial COLA Benefit Date" means the later of the member's date of benefit commencement or January 1, 1981. This date is used in the definition of Initial COLA Benefit and Target COLA Benefit;

2. "Initial COLA Benefit" means the accrued retirement benefit which will be used as the base benefit for determining the Target COLA Benefit. The Initial COLA Benefit equals the benefit in payment status as of the Initial COLA Benefit Date. Furthermore, this benefit will reflect adjustment for military service credits, if any, granted after the Initial COLA Benefit Date;

3. "CPI-U" means the Consumer Price Index for all urban consumers for all goods and services, as published by the Bureau of Labor Statistics, U.S. Department of Labor. This is used as a measure of price inflation for the development of the Target COLA Benefit defined below; and

4. "Target COLA Benefit" is the Initial COLA Benefit adjusted to reflect price inflation as measured by CPI-U. The Target COLA Benefit is calculated for each eligible member to equal the member's Initial COLA Benefit multiplied by a ratio of (A) divided by (B) as follows:

(A) is the CPI-U as of July 1, 1997.

(B) is the CPI-U as of July 1 of the calendar year of the Initial COLA Benefit Date.

B. The Board shall, effective July 1, 1999, implement a benefit adjustment, to increase, if necessary, the retirement benefit for any person receiving benefits from the System as of June 30, 1997. This benefit adjustment is intended to restore one hundred percent (100%) of the loss of the Initial COLA Benefit, if any, due to price inflation, as measured by CPI-U. The benefit adjustment shall be one hundred percent (100%) of the amount by which the Target COLA Benefit is in excess, if any, of the June 1998 retirement benefit. Persons who retired after December 31, 1996 and before July 1, 1997, shall receive a benefit increase based on one hundred percent (100%) of one-half (1/2) of the CPI-U change for the period beginning January 1, 1997 and before July 1, 1997.

C. Any increase in benefits a person is eligible to receive pursuant to repealed Section 49-136 of Title 11 of the Oklahoma Statutes, after June 30, 1998, shall be offset by the increase in benefits, if any, provided by this section.

Added by Laws 1998, c. 317, § 2, eff. July 1, 1998. Amended by Laws 1999, c. 228, § 2, eff. July 1, 1999.

§49-143.4. Increase in benefits - Amount - Offset.

A. Except as provided in subsection B of this section and except for persons receiving benefits pursuant to Section 49-101 of Title 11 of the Oklahoma Statutes, effective July 1, 2004, any person receiving benefits from the Oklahoma Firefighters Pension and Retirement System as of June 30, 2003, who continues to receive benefits on or after July 1, 2004, shall receive a four-percent increase in said benefits beginning in July 2004.

B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 49-136 of Title 11 of the Oklahoma Statutes after June 30, 2002, shall be used to offset the increase in benefits provided in subsection A of this section.

C. Effective July 1, 2004, any persons receiving benefits pursuant to Section 49-101 of Title 11 of the Oklahoma Statutes shall each receive a monthly benefit equal to Six Dollars and ninety-six cents (\$6.96) for each year of credited service not to exceed thirty (30) years of service.

Added by Laws 2004, c. 536, § 2, eff. July 1, 2004.

OKLAHOMA STATUTES

PERTAINING TO

OKLAHOMA

FIREFIGHTERS

TITLE TWO

OKLAHOMA STATUTES

AGRICULTURE

§16-72. Expansion of statewide fire protection program - Support and operation of fire departments and fire districts.

The Department of Agriculture is directed to expand the present statewide fire protection program and is authorized to acquire federal excess property for the support and operation of fire departments and fire districts.

Added by Laws 1982, c. 347, § 8, emerg. efJ June 2, 1982. Amended by Laws 2001, c. 113, § 52, em erg. efJ April 18, 2001. Renumberedfram § 1301-316 afthis title by Laws 2001, c. 113, § 56, emerg. efJ April 18, 2001.

§16-74. Federal excess property - Fire services.

The Oklahoma Department of Agriculture is the designated agency for the receipt and distribution of federal excess property for volunteer, paid, or combined departments that provide fire services.

Added by Laws 2001, c. 113, § 54, em erg. efJ April 18, 2001.

§16-81. Volunteer Firefighter Employer Contribution Payment Revolving Fund.

There is created in the State Treasury a revolving fund for the Oklahoma Department of Agriculture to be designated the "Volunteer Firefighter Employer Contribution Payment Revolving Fund". The revolving fund shall be subject to legislative appropriation and shall consist of all monies transferred to the fund and any other monies designated for deposit to this revolving fund pursuant to law.

Added by Laws 1998, c. 393, § 1, efJ Sept. 1, 1998. Amended by Laws 2001, c. 113, § 55, emerg. efJ April 18, 2001. Renumberedfram § 1301-501 afthis title by Laws 2001, c. 113, § 56, emerg. efJ April 18, 2001.

§2-16-82. Transfer of payments to Oklahoma Firefighters Pension and Retirement System.

A. The Oklahoma Firefighters Pension and Retirement System shall determine the number of persons who are eligible members of the Oklahoma Firefighters Pension and Retirement System pursuant to the provisions of subsection D of Section 351 of Title 19 of the Oklahoma Statutes.

B. For each person who has become a member as described by subsection A ofthis section, the Oklahoma Firefighters Pension and Retirement System shall provide invoice documentation to the State Department of Agriculture. Upon adequate documentation of membership in the Oklahoma Firefighters Pension and Retirement System pursuant to the provisions of subsection D of Section 351 of Title 19 of the Oklahoma Statutes, the State Department of Agriculture shall make a transfer payment from the V olunteer Firefighter Employer Contribution Payment Revolving Fund to the Oklahoma Firefighters Pension and Retirement System by May 31, 1999, and May 31 of every year thereafter. The amount transferred shall equal the sum of Sixty Dollars (\$60.00) multiplied by the number of members as certified by the System to the Department.

Added by Laws 1998, c. 393, § 3, efJ Sept. 1, 1998. Amended by Laws 1999, c. 231, § 4, emerg. efJ May 26, 1999. Renumberedfram § 1301-502 afthis title by Laws 2001, c. 113, § 56, emerg. efJ April 18, 2001.

TITLE SIXTY-TWO

OKLAHOMA STATUTES

STATE FISCAL AFFAIRS

§7.1 Agency clearing accounts-Deposits- Transfers-Exemptions - (partial presentation of section)

A. There is hereby created in the official depository in the State Treasury an agency clearing account for each state officer, department, board, commission, institution or agency of the state, hereinafter referred to collectively as state agencies. An agency special account established under Section 7.2 of this title may be used for the purposes of an agency clearing account.

G. Monies used for investment purposes by the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma State Regents for Higher Education, the State and Education Employees Group Insurance Board and the Commissioners of the Land Office are exempt from the requirements of this section, and shall be placed with the respective custodian bank or trust company.

§7.2 Special Agency Account Board - (partial presentation of section)

A. There is hereby re-created, to continue until July 1, 2008, in accordance with the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes, a Special Agency Account Board, to consist of the Director of State Finance, the State Treasurer and the Director of the Legislative Service Bureau. The Board shall have the authority to approve the establishment of agency special accounts in the official depository of the State Treasury. In the case of institutions of higher education, the Special Agency Account Board, acting in conjunction with the Oklahoma State Regents for Higher Education, shall establish special agency accounts as appropriate which shall be consistent with provisions of the Oklahoma Budget Law of 1947, Section 41.1 et seq. of this title, as it relates to institutions in The Oklahoma State System of Higher Education.

H. Monies used for investment purposes by the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System, the Teachers' Retirement System of Oklahoma, the State Insurance Fund, the State and Education Employees Group Insurance Board, the Commissioners of the Land Office, and the Oklahoma State Regents for Higher Education for its Endowment Trust Fund are exempt from the requirements of this section, and shall be placed with the respective custodian bank or trust company.

TITLE SIXTY-EIGHT

OKLAHOMA STATUTES

REVENUE AND TAXATION

§2358 Adjustments to arrive at Oklahoma taxable income and Oklahoma adjusted gross income (partial presentation of section)

For all tax years beginning after December 31, 1981, taxable income and adjusted gross income shall be adjusted to arrive at Oklahoma taxable income and Oklahoma adjusted gross income as required by this section.

D. The Oklahoma adjusted gross income of any individual taxpayer shall be further adjusted as follows to arrive at Oklahoma taxable income:

9. Retirement benefits not to exceed Five Thousand Five Hundred Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax years, which are received by an individual from the civil service of the United States, any component of the Armed Forces of the United States, the Oklahoma Public Employees Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma Law Enforcement Retirement System, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the employee retirement systems created by counties pursuant to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the Uniform Retirement System for Justices and Judges, the Oklahoma Wildlife Conservation Department Retirement Fund, the Oklahoma Employment Security Commission Retirement Plan, or the employee retirement systems created by municipalities pursuant to Section 48-101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt from taxable income.

§2358.7. Tax credit - Volunteer firefighter.

A. For taxable years beginning after December 31, 2004, there shall be allowed as a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes in an amount equal to:

1. Two Hundred Dollars (\$200.00) each year for which a volunteer firefighter provides proof of certification as required by subsection B of this section; and

2. Four Hundred Dollars (\$400.00) each year following the taxable years for which a taxpayer is eligible for the credit provided by paragraph 1 of this subsection for a volunteer firefighter providing proof of certification as required by subsection D of this section.

B. In order to claim the tax credit authorized by paragraph 1 of subsection A of this section, a volunteer firefighter shall be required to provide adequate documentation to the Oklahoma Tax Commission of at least twelve (12) credited hours toward the Volunteer Firefighter Practices program offered by Oklahoma State University Fire Service Training prior to or during the first taxable year for which a tax credit is claimed pursuant to paragraph 1 of subsection A of this section.

C. For each year subsequent to the first year for which a volunteer firefighter may claim the tax credit authorized by paragraph 1 of subsection A of this section, in order to claim any further tax credits pursuant to paragraph 1 of subsection A of this section, the volunteer firefighter shall be required to provide documentation that the firefighter has completed an additional six (6) hours of Fire Service Training Volunteer Firefighter Practices program until such program or its equivalent is completed. For purposes of this subsection, equivalency shall be determined by Oklahoma State University Fire Service Training. For purposes of this subsection, Firefighter I, Firefighter II or Firefighter III certifications or their equivalents may be provided in lieu of the Volunteer Firefighter Practices certification.

D. After having completed at least thirty (30) hours of instruction and having completed the Volunteer Firefighter Practices program, in order to be eligible for the tax credit authorized by paragraph 2 of subsection A of this section, the volunteer firefighter shall:

1. Attend and receive certification for annual chemical, biological, radiological and nuclear (CBRN) response training and weapons of mass destruction (WMD) training of at least one (1) hour per subject, respectively;

2. Complete at least six (6) hours of continuing education each year until the volunteer firefighter completes a certification as Firefighter or its equivalent. For purposes of this paragraph, equivalency shall be determined by Oklahoma State University Fire Service Training;

3. Provide documentation from the fire chief of the applicable department that the firefighter has been provided and participated in all annual training as required by federal and state authorities including, but not limited to, annual fit testing for breathing apparatus, "right-to-know" laws, Homeland Defense, CBRN, WMD or other applicable requirements; and

4. Provide documentation from the fire chief of the applicable department that the volunteer firefighter has met the requirements under the fire department's constitution and bylaws and is a member in good standing of the department together with a record of the total number of years of service in good standing with such department.

E. In order to assist the Oklahoma Tax Commission with the administration of the tax credits authorized by this section, the Oklahoma State University Fire Service Training program shall provide to all fire departments a uniform document that indicates the annual training hours and continuing education training hours completed by each volunteer firefighter through the Fire Service Training program.

F. The Office of the State Fire Marshal shall prescribe a reporting form for use by volunteer fire departments and by volunteer firefighters in order to provide the certifications required by this section.

G. The Oklahoma Tax Commission may require copies of such documentation provided by Oklahoma State University Fire Service Training program or the Office of the State Fire Marshal regarding training history to verify eligibility for the tax credits provided by this section.

Added by Laws 2004, c. 515, § 3, eff July 1, 2004.

TITLE SEVENTY

OKLAHOMA STATUTES

THE OKLAHOMA STATE SYSTEM OF HIGHER EDUCATION

§3218. 7. Waiver of tuition for children of peace officers or firefighters killed in line of duty.

A. Within The Oklahoma State System of Higher Education, no resident tuition or nonresident tuition shall be charged to the:

1. Children of Oklahoma peace officers as defined by Section 648 of Title 21 of the Oklahoma Statutes who have given their lives in the line of duty;

2. Children of Oklahoma firefighters who have given their lives in the line of duty;

3. Children of members of the Oklahoma Law Enforcement Retirement System who have given their lives in the line of duty or whose disability is by means of personal and traumatic injury of a catastrophic nature, as defined by Section 2-300 of Title 47 of the Oklahoma Statutes, and occurred in the line of duty; and

4. Children of Oklahoma emergency medical technicians who have given their lives in the line of duty.

B. Such waiver of resident tuition and nonresident tuition shall be limited to a period of five (5) years.

C. Such waiver of resident tuition or nonresident tuition to the children of deceased peace officers and to the children of deceased firefighters as provided for in this section shall be a service benefit of each Oklahoma peace officer and Oklahoma firefighter.

D. For purposes of this section:

1. "Firefighter" means a volunteer firefighter or a permanent salaried professional member of any fire department within the State of Oklahoma; and

2. "Emergency medical technician" means a person volunteering or employed as an emergency medical technician and who is licensed as an emergency medical technician pursuant to Section 1-2505 of Title 63 of the Oklahoma Statutes.

Added by Laws 1988, c. 251, § 7, operative July 1, 1988. Amended by Laws 1989, c. 358, § 1, operative July 1, 1989; Laws 1990, c. 59, § 1, em erg. ejf. Apri/16, 1990; Laws 1999, c. 330, § 3, ejf. July 1, 1999; Laws 2002, c. 399, § 8, ejf. July 1, 2002; Laws 2005, c. 454, § 2, ejf. July 1, 2005.

TITLE SEVENTY-TWO

OKLAHOMA STATUTES

SOLDIERS AND SAILORS

§67.13a War veterans defined - Retirement benefits (effective February 1, 1997)

The words "war veterans" used in Section 67.13 of this title shall be construed to mean such honorably discharged persons as:

(a) served in the Armed Forces of the United States at any time during the period from April 6, 1917, to November 11, 1918, both dates inclusive, or

(b) served in the Armed Forces of the United States as members of the 45th Division at any time during the period from September 16, 1940, to December 7, 1941, both dates inclusive, or

(c) served in the Armed Forces of the United States at any time during the period from December 7, 1941, to December 31, 1946, both dates inclusive, or

(d) served in the Armed Forces of the United States at any time during the period from June 27, 1950, to January 31, 1955, both dates inclusive, or

(e) served for a period of ninety (90) days or more, unless discharged from active duty for a service-connected disability, in the Armed Forces of the United States during the period of time in which the United States participated in a war, campaign or battle, but excluding any person who shall have served on active duty for training only, unless discharged from active duty for service-connected disability, or

(f) served in the Armed Forces of the United States in a combat zone or in the immediate supporting area of the combat zone as certified by the War Veterans Commission of Oklahoma, prior to August 5, 1964, or

(g) served in the Armed Forces of the United States at any time during the period which began on August 5, 1964, and ended on may 7, 1975; except that such period shall be deemed to have ended on December 31, 1976, when determining eligibility for education and training benefits, or

(h) served in the Armed Forces of the United States at any time during the period which began on August I, 1990, and ended on December 31, 1991, excluding any person who shall have served on active duty for training only, unless discharged from active duty for service-connected disability.

The term "war veteran" shall include only those persons who shall have served during the times or in the areas prescribed hereinabove, and those persons who were awarded service medals, as authorized by the United States Department of Defense as reflected in the veteran's Defense Department Form 214,

related to the Vietnam conflict who served prior to August 5, 1964. Any honorably discharged war veteran of any of the Armed Forces of the United States shall be entitled to such tax exemptions to include but not be limited to tax-exempt veterans' benefits as provided in subsection (1) of Section 2405 of Title 68 of the Oklahoma Statutes, special permits and veteran' preferences for state employment; provided, that any person who shall have served on active duty for training purposes only shall not be entitled to any such tax exemptions, special permits or veteran' preferences.

War veterans, as defined above, shall receive maximum benefits available for each year of creditable service, not to exceed five (5) years, for active military service for retirement benefits in the retirement systems within the State of Oklahoma; however, this provision shall apply to the Oklahoma Employment Security Commission only if approved by the federal funding source of the Oklahoma Security Commission. The provisions of this act shall include military retirees, whose retirement was based only on active service, that have been rated as having twenty percent (20%) or greater serviceconnected disability by the Veterans Administration or the Armed Forces of the United States.

Added by Laws 1951, p. 324, § 2, emerg. eff April 18, 1951. Amended by Laws 1968, c. 102, § 1, em erg. eff. April 1, 1968; Amended by Laws 1969, c. 150, § 1, em erg. eff. April 14, 1969; Amended by Laws 1971, c. 88, § 1, emerg. eff April 16, 1971; Amended by Laws 1975, c. 304, § 1, em erg. eff. June 7, 1975; Amended by Laws 1978, c. 1, § 1, em erg. eff Jan. 13, 1978; Amended by Laws 1981, c. 288, § 1, emerg. eff June 29, 1981; Amended by Laws 1987, c. 206, § 85, operative July 1, 1987; Amended by Laws 1987, c. 236, § 43, emerg. eff. July 20, 1987; Amended by Laws 1990, c. 242, § 1, em erg. eff. May 21, 1990; Amended by Laws 1991, c. 138, § 1, eff July 1, 1991; Amended by Laws 1991, c. 205, § 2, emerg. eff May 17, 1991.

TITLE SEVENTY-FOUR

OKLAHOMA STATUTES

STATE FIRE MARSHAL

§ 325.1. Council on Firefighter Training

A. There is hereby established the Oklahoma Council on Firefighter Training.

The Council shall consist of nine (9) members., two of whom shall be ex officio and nonvoting, as follows:

1. One member to be appointed by the Oklahoma State Firefighters Association who shall be a member of an Oklahoma fire department representing all members of paid, volunteer and combination fire departments;

2. One member to be appointed by the Professional Fire Fighters of Oklahoma who shall be a fire union officer, chief officer, or fire service instructor from a full-time paid fire department;

3. One member to be appointed by the Oklahoma Fire Chiefs' Association who shall be a chief officer or fire service instructor from an Oklahoma combination fire department;

4. One member to be appointed by the State Fire Marshal Commission who shall be a representative of the Oklahoma Fire Service with commensurate skills in arson investigation or code enforcement¹¹;

5. One member to be appointed by the Oklahoma Rural Fire Coordinators who shall be a chief officer or fire service instructor from a volunteer fire department;

6. One member to be appointed by the Director of the State Department of Health-Emergency Medical Services Division who shall be a chief officer or fire service EMS instructor from an Oklahoma fire department;

7. One member to be appointed by the Director of the Oklahoma Department of Homeland Security who shall be a municipal emergency management official;

and 8. The Director of Fire Service Training, Oklahoma State University, ex officio and nonvoting;

9. The Director of Fire Service Publications, Oklahoma State University, ex officio and nonvoting.

C. The initial term of office for the members of the Council shall be:

1. Three (3) years for persons appointed pursuant to paragraphs 1 through 3 of subsection B of this section;

2. Two (2) years for persons appointed pursuant to paragraphs 4 and 5 of subsection B of this section; and

3. One (1) year for persons appointed pursuant to paragraphs 6 and 7 of subsection B of this section.

D. After the expiration of the initial terms of office prescribed by subsection C of this section, the term of office for each member of the Council shall be for a period of three (3) years.

E. Each member of the Council shall serve at the pleasure of the appointing authority.

F. Appointments made to fill a vacancy in any position shall be for the period of time remaining for such appointed position and shall be made in the same manner as for the original appointment. Any vacancy in the Council shall be filled in the same manner as provided for in the original appointment.

G. The Council shall be responsible for:

1. Identifying firefighter training needs and setting the firefighter training goals for the State of Oklahoma;

2. Interacting with the Homeland Security Department's Preparedness and Awareness Division on firefighter training and grants; and

3. Administering and maintaining the incentive and recognition programs established for Oklahoma firefighters.

H. The Council shall advise the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the State Senate and the Oklahoma State Fire Service on fire and emergency service training needs for the state. The Council shall submit an annual report or recommendations regarding fire and emergency service training needs to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the State Senate not later than December 31 each year.

1. After the initial appointments to the Council have been made and at the beginning of each fiscal year thereafter, the Council shall select from among its membership a chairperson.

J. At least four members of the Council must be present to constitute a quorum at the meetings of the Council. A simple majority of the members in attendance and voting shall constitute passage of any vote.

K. The chair of the Council shall recommend to the appointing authority the replacement of any Council member who misses more than two consecutive regular meetings or who attends less than fifty percent (50%) of the Council's regularly scheduled meetings in a twelve-month period without an excused absence.

L. The staff of the Oklahoma State Firefighters Association shall provide the Council with administrative, professional and clerical services as funding permits. Functions of the Council that may be paid for from other sources shall be paid using such other sources as may be authorized by law.

M. The Council shall conduct four meetings annually. Meetings of the Council shall be held at a location and time to be determined by the chair. The chair shall have the discretion to cancel or reschedule any regular meeting by written notice within a reasonable time prior to the meeting. Council members shall be notified of the time and place of all such meetings at least seven (7) days prior to the meeting date.

N. Special meetings of the Council may be called at the discretion of the chair or by a written request of at least three members of the Council. An agenda, together with a written notice of the time and place of any such meeting must be provided to the Council members at least seven (7) days in

advance. Only matters contained in the agenda shall be voted on at any special meeting. The chair shall have the discretion to cancel any special meeting; provided, that such meetings called by the members of the Council are canceled only with their consent.

Added by Laws 2004, c. 515, § 2, eff July 1, 2004.

RIGHTS AND BENEFITS

§840-2.20. State Employees - Leave benefits - Emergency and permanent rules - (partial presentation of section)

A. The Administrator of the Office of Personnel Management shall promulgate such emergency and permanent rules regarding leave and holiday leave as are necessary to assist the state and its agencies.

The Administrator of the Office of Personnel Management, in adopting new rules, amending rules and repealing rules, shall ensure that the following provisions are incorporated:

8. Employees who are volunteer firefighters pursuant to the Oklahoma Volunteer Firefighters Act and who are called to fight a fire shall not have to use any accrued leave or need to make up any time due to the performance of their volunteer firefighter duties.

OKLAHOMA STATE PENSION COMMISSION

§941 Oklahoma State Pension Commission-Members-Meetings-Apportionment of administrative costs

A. There is hereby created the Oklahoma State Pension Commission. The Commission shall consist of seven (7) members as follows:

1. The State Auditor and Inspector or that person's designee;
2. The Director of the Department of Central Services or that person's designee;
3. The State Treasurer or that person's designee;

4. One member who shall be a member of the Senate appointed by the President Pro Tempore of the Senate who shall serve at the pleasure of the appointing authority;

5. One member who shall be a member of the House of Representatives appointed by the Speaker of the House of Representatives who shall serve at the pleasure of the appointing authority; 6. One person to be appointed by the Governor who shall have at least ten (10) years of demonstrated experience in the banking industry; and

7. One person to be appointed by the Governor who shall have at least ten (10) years of experience in professional pension planning, including demonstrated experience with defined benefit retirement plan design.

No member of the governing body of a state retirement system shall be eligible to be appointed to the Commission.

B. The Commission shall hold regular meetings at least once each quarter, the dates, time and place to be set by the Commission. The Commission shall hold its first meeting prior to September 30, 1988.

C. The Office of the State Auditor and Inspector shall provide the administrative support required by the Commission.

D. The cost of providing the administrative support shall be apportioned by the State Auditor and Inspector among the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma

Public Employees Retirement System and the Department of Wildlife Conservation on behalf of the retirement plan adopted by the Wildlife Conservation Commission in proportion to the percentage that the assets of each system at the end of the preceding fiscal year were to the combined total of the assets of the systems.

Added by Laws 1988, c. 321, § 38, operative July 1, 1988. Amended by Laws 1993, c. 322, § 29, emerg. efJ. June 7, 1993; Laws 1996, c. 29, § 1, efJ. Nov. 1, 1996; Laws 2002, c. 391, § 1, efJ. July 1, 2002.

§74-942. Duties of Commission - Reports - Management consultants - Fiduciary duties.

A. The Oklahoma State Pension Commission shall:

1. Publish, on a quarterly basis, a performance report analyzing the performance of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma Public Employees Retirement System and the retirement plan adopted by the Wildlife Conservation Commission on an individual and consolidated basis. The Commission shall establish a format for use by each of the state retirement systems in submitting the information requested by the Commission for the report. The report shall contain:

- a. combined and individual rates of return of the investment managers by category of investment, over periods of time,
- b. the data obtained pursuant to subparagraph a of this paragraph compared with similar data for a larger population of investment managers by asset class as well as by style of management,
- c. an analysis of the performance of the custodian bank or trust company of the System including, but not limited to, a specific review of the adequacy of the collateralization of the short-term interest-bearing investment vehicles placed by the custodian, and
- d. any other information that the Commission may include;

2. Publish widely an annual comparative performance report in simple and easily understood language containing:

- a. on an individual and consolidated basis, an analysis of the written investment plans developed by each retirement system as required by law,
- b. a qualitative and quantitative analysis of the performance of the custodian employed by each governing body of the retirement systems specified in paragraph 1 of this subsection and the performance of the Office of the State Treasurer with regard to retirement system monies,
- c. the result of the analyses prepared pursuant to subparagraphs a and b of this paragraph compared with similar data for a larger population,
- d. recommendations on administrative and legislative changes which are necessary to improve the performance of the retirement systems in accordance with current standards for large public fund portfolio management,
- e. a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over funded status, contributions and any other information deemed relevant by the Commission. The results shall be determined using the standards prescribed by the Government Accounting Standards Board or any successor entity, and
- f. a listing by category of the expenses of the Commission;

3. Make recommendations to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the State Senate, based upon the advice of pension consultants, for updating or standardizing retirement system benefit designs; and

4. Make recommendations to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the State Senate regarding the methods for the adequate financing of benefits authorized or required by law for performance of service upon behalf of employers participating in any of the retirement systems administered by the entities identified in paragraph 1 of this subsection, including, but not limited to, recommendations regarding the use of dedicated tax or other revenue sources or the modification of such tax or other revenue sources to provide additional funding to retirement systems the actuarial condition of which would benefit from such sources.

B. The Commission shall distribute its reports and recommendations, including a summary of the information provided to the Commission pursuant to subsection E of this section, to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the chairman and vice-chairman of the Joint Committee on Fiscal Operations. The Commission shall make the reports widely available to the members of the Legislature, members of the retirement systems and the general public.

C. The Commission shall hire one or more pension fund management consultants to assist the Commission in accomplishing its objectives specified in subsection A of this section. Consultants shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Commission. A consultant:

1. Shall be experienced in providing unbiased third-party consulting services;
2. Shall have in its client base individual clients that are comparable in size to the combined total assets of the retirement systems specified in paragraph 1 of subsection A of this section; and
3. Shall not be under contract with any of the individual governing bodies of the various state retirement systems.

D. For purposes of this subsection, pension fund management consultants hired by the Commission are hereby considered fiduciaries of the state retirement systems.

1. A fiduciary with respect to the state retirement systems shall not cause or advise a retirement system to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect:

- a. sale or exchange, or leasing of any property from a retirement system to a party in interest for less than adequate consideration or from a party in interest to a retirement system for more than adequate consideration,
 - b. lending of money or other extension of credit from a retirement system to a party in interest without the receipt of adequate security and a reasonable rate of interest, or from a party in interest to a retirement system with provision of excessive security or an unreasonably high rate of interest,
 - c. furnishing of goods, services or facilities from a retirement system to a party in interest for less than adequate consideration, or from a party in interest to a retirement system for more than adequate consideration, or
 - d. transfer to, or use by or for the benefit of: a party in interest of any assets of a retirement system for less than adequate consideration.
2. A fiduciary with respect to the state retirement systems shall not:
- a. deal with the assets of a retirement system in the fiduciary's own interest or for the fiduciary's own account,
 - b. in the fiduciary's individual or any other capacity act in any transaction involving a retirement system on behalf of a party whose interests are adverse to the interests of a retirement system or the interests of its participants or beneficiaries, or
 - c. receive any consideration for the fiduciary's own personal account from any party dealing with a retirement system in connection with a transaction involving the assets of a retirement system.

E. In order to standardize the information and analysis of the financial condition of each of the retirement systems, the Board of Trustees of each retirement system making annual reports to the Commission as required by law shall provide information regarding the financial and actuarial condition of the System using assumptions or requirements as hereinafter required for the report stating the condition of the System as of July 1, 2002, and for each subsequent reporting date, which information shall be contained in an appendix or addendum to the annual report. For purposes other than the reporting requirements contained in the appendix or addendum, all actuarial and economic assumptions shall be those assumptions adopted by the respective retirement system in its annual actuarial valuation. The appendix or addendum shall contain a statement of the financial condition of the retirement system:

1. Using an assumed rate of return of seven and one-half percent (7.5%), net of investment expenses, per annum, compounded annually;
2. Using an actuarial assumption regarding cost-of-living adjustments for the retirement system of two percent (2%) annually;
3. That relies upon the use of appropriate preretirement, postretirement and disability retirement information using generational projections taken from the RP-2000 Mortality Tables, published by the Society of Actuaries;
4. Which accurately and completely summarizes all sources of system assets, other than employee contributions, which shall include, but not be limited to, the total of all employer contributions, any dedicated tax or fee revenue, of whatever kind or however denominated, and the total amount of any other source of revenue which accrues to the retirement system, other than return on investments, such as federal monies used for the purpose of making employer contributions; and
5. Using an assumption that the unfunded actuarial accrued liabilities of the retirement system are amortized over a period of thirty (30) years, in a manner consistent with the Governmental Accounting Standards Board Statement Number 25.

Added by Laws 1988, c. 321, § 39, operative July 1, 1988. Amended by Laws 1993, c. 322, § 30, emerg. eff. June 7, 1993; Laws 2002, c. 391, § 2, eff. July 1, 2002; Laws 2003, c. 90, § 1, em. erg. eff. April 15, 2003.

TITLE ELEVEN

OKLAHOMA STATUTES

FIRE DEPARTMENTS

PART 1. GENERAL PROVISIONS

§29-101. General powers.

The municipal governing body may procure all necessary equipment for protection and prevention against fire and provide for the organization of a municipal fire department. The governing body may enact such ordinances, resolutions and regulations as may be necessary to establish and operate a fire department, and to borrow money and issue bonds therefor subject to the provisions of the Constitution and laws of Oklahoma.

Added by Laws 1977, c. 256, § 29-101, eff. July 1, 1978.

§29-102. Fire chief - Duties - Qualifications - Activity report forms.

All cities having a paid fire department shall have one full-time fire chief whose primary duty shall be the administration of the fire department in accordance with the policies and procedures prescribed by the governing body or by the city manager. The fire department shall be under the direction and control of the fire chief who shall not serve as fire chief and police chief. The chief of any paid municipal fire department shall have had at least three (3) years' actual experience as a paid fire fighter. It shall be the

duty of the fire chief to file the appropriate activity report forms with the Office of the State Fire Marshal in Oklahoma City on an annual basis. The activity report forms shall be designed by the State Fire Marshal and shall include, but not be limited to, the amount of property and vehicle fire loss, types of fires, inspections and investigations. The report shall include notification of all fire-related civilian deaths and injuries in the respective jurisdiction and of fire fighter deaths in the line of duty and of fire fighter injuries in the line of duty requiring the services of a hospital or physician or both.

Added by Laws 1977, c. 256, § 29-102, eff July 1, 1978; Amended by Laws 1980, c. 250, § 1; eff Oct. 1, 1980; Laws 1982, c. 83, § 1; Laws 1986, c. 190, § 4, operative July 1, 1986; Laws 1990, c. 16, § 1, em erg. eff March 29, 1990.

§29-103. Firefighters - How appointed.

The members of all paid municipal fire departments shall, on approval of the chief of the fire department, be appointed in the manner provided by law applicable to the form of municipal government for the appointment of municipal employees.

Added by Laws 1977, c. 256, § 29-103, eff July 1, 1978.

§29-104. Tenure of office.

The chief and members of all paid municipal fire departments shall hold their respective positions unless removed for a good and sufficient cause as provided by applicable law or ordinance.

Added by Laws 1977, c. 256, § 29-104, eff July 1, 1978

§29-104.1. Paid fire department - Definition.

The term "paid fire department" means one which has in its employ more than two full-time salaried firefighters and no emolled volunteer firefighters.

Added by Laws 2003, c. 460, § 1, eff July 1, 2003.

§29-105. Municipalities and fire protection districts - Contracts.

A municipality may:

1. Provide protection from fire for all persons and property within its boundaries;
2. Contract to give or receive such protection to or from one or more municipalities or private organizations;
3. Provide fire protection jointly with one or more municipalities or private organizations;
4. Contribute toward the support of any fire department in return for fire protection service;
5. Create fire protection districts within the limits of the municipality encompassing areas served by fire protection services; or
6. Provide fire protection for persons and property outside its corporate limits provided that said fire protection has been authorized by the governing body of the municipality.

Added by Laws 1977, c. 256, § 29-105, eff July 1, 1978; Amended by Laws 1993, c. 241, § 1, eff Sept. 1, 1993.

§29-106. Contracts respecting fire protection.

Any contract for fire protection entered into by the governing bodies of municipalities shall expressly stipulate the terms and conditions upon and in compliance with which each party thereof is to cooperate in furnishing, maintaining, and operating fire equipment for outside aid or mutual aid or making payment for such service. Governing bodies may contract to supply fire protection to owners of any individual properties.

Added by Laws 1977, c. 256, § 29-106, eff July 1, 1978.

§29-107. Firefighters working outside limits - Compensation - Pension fund.

All municipal firefighters, full paid or volunteer, attending and serving at fires or doing fire prevention work or rescue, resuscitation, first aid, inspection or any other official work outside the corporate limits of a municipality as provided in Sections 29-105 through 29-108 of this title shall be considered as

serving in their regular line of duty as full as if they were serving within the corporate limits of their own municipality; but fuel paid firefighters shall receive no additional compensation, and volunteer firefighters shall receive only such compensation as may be provided for by ordinance or resolution for such cases. All such firefighters shall be entitled to all the benefits of any pension fund, firemen's relief and pension fund in the same manner as if the fire fighting or fire prevention work or rescue, resuscitation, first aid, inspection or any other official work has been within the corporate limits of the municipality.

Added by Laws J977, c. 256, § 29-J07, efJ. July J, J978.

§29-108. Fire department answering calls outside corporate limits considered agent of state - Liability for damages.

A municipal fire department answering any fire alarms or performing fire prevention services or rescue, resuscitation, first aid, inspection or any other official work outside the corporate limits of its municipality shall be considered an agent of the State of Oklahoma, and acting solely and alone in a governmental capacity. Said municipality shall not be liable in damages for any act of commission, omission, or negligence while answering or returning from any fire or reported fire or doing or performing any fire prevention work or rescue, resuscitation, first aid, inspection or any other official work.

Added by Laws J977, c. 256, § 29-108, efJ. July J, J978.

PART I-A. CONTRACTS FOR FIRE PROTECTION SERVICES

§29-109. Municipalities permitted to contract for fire protection.

A. Any city or town operating a paid fire department may contract with a private entity, organization, corporation or company for the performance of the essential functions of fire suppression, prevention, and life safety duties in a fire department and, if required, transfer capital assets used in fire protection services to a public trust for the use of the private entity, organization, corporation or company in providing such services. Pursuant to the provisions of this act, the mayor shall issue an order calling for an election on the question of whether or not the city or town shall change its method of providing fire protection if:

1. An initiative petition is filed with the governing body of the municipality; or 2.

The governing body, by resolution, so directs.

B. The initiative petition or resolution of the governing body shall be filed with the clerk of the municipality at least one hundred twenty (120) days before the filing date for the next municipal general election. The order calling for the election regarding fire protection services shall be issued by the mayor of the municipality within ten (10) days after a decision has been made on the ballot title, or within ten (10) days after the effective date of the resolution of the governing body.

Added by Laws J997, c. 142, § J, efJ. Nov. J, J997.

§11-29-110. Election on question of contracting for fire protection services.

The question of contracting for fire protection services with a private entity, organization, corporation or company and, if required, the transfer of capital assets used in fire protection services to a public trust, shall be submitted to the registered voters of the city or town at the next general election, or a special election to be held in the city or town not less than thirty (30) days nor more than sixty (60) days after the date of the order calling for the election. Notice of the election on the question shall be given by the governing body in a manner required for municipal elections.

Added by Laws J997, c. 142, § 2, efJ. Nov. J, J997.

§29-111. Ballot - Canvass of returns and resolution of governing body.

A. 1. The question submitted to the registered voters of the municipality shall be substantially in the following form:

Shall the City of _____ contract for fire protection services with a private entity, organization, corporation or company?

() Yes (

) No

2. If the question includes the transfer of capital assets used in fire protection services, a second question shall be submitted to the registered voters of the municipality and shall be substantially in the following form:

Shall the City of _____ transfer ownership of capital assets used in fire protection services to a public trust for use by the private entity, organization, corporation or company in providing such services?

() Yes (

) No

B. 1. The secretary of the county election board shall, within five (5) days after the canvass of returns, certify the results of the election on the question to the governing body.

2. If a majority of the votes cast are in favor of contracting for fire protection services with a private entity, organization, corporation or company, the governing body shall, within twenty (20) days after receiving the certification, adopt a resolution stating that the city or town will contract for fire protection services with a private entity, organization, corporation or company pursuant to a solicitation of proposals on a competitive bid basis pursuant to the provisions of the Oklahoma Central Purchasing Act.

3. If a majority of the votes cast are in favor of transferring ownership of capital assets used in fire protection services to a public trust for use by the private entity, organization, corporation or company in providing such services, the governing body shall, within twenty (20) days after receiving the certification, adopt a resolution stating that the city or town will create a public trust for such purpose and transfer ownership of the assets to the public trust.

Added by Laws 1997, c. 142, § 3, eff. Nov. 1, 1997.

§29-112. Recording and filing of resolutions.

The resolutions required pursuant to Section 3 of this act shall be recorded in the office of the county clerk and filed in the office of the Secretary of State and in the archives of the city.

Added by Laws 1997, c. 142, § 4, eff. Nov. 1, 1997

§29-113. Fire protection services to meet or exceed current level of service.

The delivery of fire protection services shall meet or exceed the current levels and standards of fire protection services being provided by the municipality, pursuant to the provisions of Section 324.8 of Title 74 of the Oklahoma Statutes, in order for a private entity, organization, corporation or company to provide fire protection services to a municipality.

Added by Laws 1997, c. 142, § 5, eff. Nov. 1, 1997.

§29-114. Certain firefighters governmental employees and members of the Oklahoma Firefighters Pension and Retirement System.

All firefighters in the state whose fire department provides fire protection services to a participating municipality, as defined in paragraph 9 of Section 49-100.1 of Title 11 of the Oklahoma Statutes, on or after the effective date of this act shall be governmental employees, as described in Internal Revenue Service Revenue Rule 89-49, 1989-1 CB 117, and shall be members of the Oklahoma Firefighters

Pension and Retirement System. The Oklahoma Firefighters Pension and Retirement Board shall determine whether a firefighter is a governmental employee as defined in this section.

Added by Laws 1997, c. 142, § 6, eff Nov. 1, 1997.

§29-115. Publication of income or loss statement and balance sheet.

Every private entity, organization, corporation or company providing fire protection services to a municipality shall, within ninety (90) days after the end of its fiscal year, publish one insertion in a legal newspaper that services that municipality. Such insertion shall be a statement of income or loss and a balance sheet that relates only to the fire protection services being provided to the municipality. The statement shall be prepared in conformance with generally accepted accounting principles along with an opinion of fair presentation by a certified public accountant.

Added by Laws 1997, c. 142, § 7, eff Nov. 1, 1997.

PART 2. VOLUNTEER FIRE DEPARTMENTS

§29-201. Oklahoma Volunteer Firefighters Act - Purpose.

The purpose of the Oklahoma Volunteer Firefighters Act, Sections 29-201 through 29-205 of this title, is to provide for a uniform system of fire protection for the lives and property of the people of Oklahoma. *Added by Laws 1977, c. 256, § 29-201, eff July 1, 1978.*

§29-202. Definitions.

As used in Sections 29-201 through 29-205 of this title:

1. "Volunteer firefighter" means a person who is enrolled as a member of a fire department and who serves in such capacity without receiving a regular salary;
2. "Volunteer fire department" means a fire department which has in its employ not more than two full-time salaried firefighters; and
3. "Municipality" means a municipality which has qualified to participate in the Oklahoma Firefighters Pension and Retirement System.

Added by Laws 1977, c. 256, § 29-202, eff July 1, 1978. Amended by Laws 2003, c. 460, § 2, eff July 1, 2003.

§29-203. Size of volunteer department.

Any municipality having a volunteer fire department shall limit by ordinance the size of the volunteer fire department to not less than twelve nor more than twenty-five members for municipalities with a population of more than one thousand five hundred (1,500); or not less than eight or more than twentyfive members for municipalities with a population of eight hundred (800) to one thousand five hundred (1,500); or not less than six or more than twenty-five members for municipalities with a population of less than eight hundred (800).

Added by Laws 1977, c. 256, § 29-203, eff July 1, 1978. Amended by Laws 1980, c. 352, § 51, eff Jan. 1, 1981; Laws 1981, c. 3, § 1, emerg. eff Feb. 19, 1981; Laws 1983, c. 230, § 1, emerg. eff June 17, 1983; Laws 2002, c. 115, § 1, eff Nov. 1, 2002.

§29-204. Minimum rules and regulations of volunteer fire department.

Any municipality which has volunteers enrolled as members of the fire department shall adopt by ordinance a code of minimum rules and regulations in substantial compliance with the following:

Article 1. The Fire Chief.

(a) The chief shall be the head of the department, subject to the laws of the State of Oklahoma, ordinances of this municipality, and the rules and regulations adopted pursuant to this section. The chief shall be appointed in the manner provided by law applicable to this municipality for the appointment of municipal officers.

(b) The chief shall be responsible for the general condition and efficient operation of the department, the training of members, and the performance of all other duties imposed upon him by law or the municipality.

(c) The chief may inspect or cause to be inspected by members of the department, the municipal fire hydrants, cisterns, and other sources of water supply of the municipality at least twice a year.

(d) The chief shall maintain a library or file of publications on fire prevention and fire protection and shall make use of it to the best advantage of all members.

(e) The chief shall make every effort to attend all fires and shall direct the officers and members in the performance of their duties.

(f) The chief shall see that the citizens are kept informed on fire hazards in the community and on the activities of the department.

(g) The chief shall see that each fire is carefully investigated to determine its cause, and in the case of suspicion of incendiarism shall notify proper authorities. The chief shall secure and preserve all possible evidence for future use in the case of suspicious incendiarism.

(h) The chief shall file the appropriate activity report forms with the Office of the State Fire Marshal in Oklahoma City on an annual basis. The activity report forms shall be designed by the State Fire Marshal and shall include, but not be limited to, the amount of property and vehicle fire loss, types of fires, inspections and investigations. The report shall include notification of all fire-related civilian deaths and injuries in the respective jurisdiction and of fire fighter deaths in the line of duty and of fire fighter injuries in the line of duty requiring the services of a hospital or physician or both.

Article 2. The Assistant Chief.

In the absence of the chief, the assistant chief on duty shall command the department and shall have the full powers and responsibilities of the chief.

Article 3. Company Officers.

The company officers shall be selected upon their: 1. knowledge of fire fighting, 2. leadership ability, and 3. knowledge of fire fighting equipment.

Article 4. The Secretary-Treasurer.

One member elected by the fire department shall be secretary-treasurer. His duties shall consist of the following: 1. Calling the roll at the opening of each meeting, 2. Keeping the minutes of each meeting, and 3. Collecting any money due the department by the members.

Article 5. New Members.

(a) All new members shall be on probation for one (1) year after their appointment.

(b) New volunteer members upon completion of their probation period must be approved by the majority of the fire department.

Article 6. Bylaws.

The bylaws of the department shall include but shall not be limited to the following:

(a) All volunteer fire fighters are required to respond to alarms of fire and other emergencies when notified.

(b) A volunteer fire fighter is required to be present at all regular meetings, call meetings, and schools presented for the benefit of the fire fighters.

(c) There shall be at least one regular business meeting each month.

(d) Any volunteer fire fighter having two unexcused absences in succession or three unexcused absences in a period of three (3) months will be expelled from the fire department rolls.

(e) Volunteer fire fighters leaving the municipality for an extended period of time will be required to notify the chief.

(f) Any volunteer fire fighter refusing to attend training classes provided for him will be expelled from the rolls.

(g) Any volunteer member of the fire department shall be expelled from the rolls for the following offenses: 1. Conduct unbecoming a fire fighter, 2. Any act of insubordination, 3. Neglect of duty, 4. Any violation of rules and regulations governing the fire department, or 5. Conviction of a felony.

Added by Laws 1977, c. 256, § 29-204, eff. July 1, 1978. Amended by Laws 1982, c. 83, § 2; Laws 1983, c. 202, § 3, operative July 1, 1983; Laws 1986, c. 190, § 5, operative July 1, 1986; Laws 1990, c. 16, § 2, emerg. eff. March 29, 1990.

§29-205. Copies of volunteer fire department ordinances submitted to Insurance Commissioner. Copies of the ordinances adopted by any municipality in compliance with the provisions of Sections 29-203 and 29-204 of this title shall be submitted to the State Insurance Commissioner when such ordinances are adopted or amended by the municipal governing body.

Added by Laws 1977, c. 256, § 29-205, eff. July 1, 1978.

PART 3. COMBINATION FIRE DEPARTMENTS

§29-301. Definitions.

A. As used in this section and Section 4 of this act:

1. "Combination fire department" means a fire department which has in its employ more than two full-time salaried firefighters and at least one but not more than twenty-five volunteer firefighters. However, a fire department that would otherwise be considered a "combination fire department" under this definition but for the fact that it had more than twenty-five (25) volunteer firefighters on June 1, 2003, shall be considered a "combination fire department" as long as it does not exceed the number of volunteer firefighters that it had on June 1, 2003; and

2. "Volunteer firefighter of a combination fire department" means a person who is enrolled as a volunteer member of a combination fire department and who serves in such capacity without receiving a regular salary. The person, who is a salaried employee of a municipality, shall not serve as a volunteer firefighter of a combination fire department if such service as a volunteer firefighter is a condition of employment with the municipality. A person, who is a salaried public safety employee of a municipality, shall not serve as a volunteer firefighter of a combination fire department unless the person is off duty and such service is not a condition of employment.

B. For the purposes of this subsection, a public safety employee is a person employed to serve as a salaried firefighter, police or other law enforcement officer or emergency medical technician.

Added by Laws 2003, c. 460, § 3, eff. July 1, 2003.

§29-302. Application of other provisions of law.

The provisions of Sections 29-101 through 29-115 of Title 11 of the Oklahoma Statutes relating to paid fire departments, paid fire chiefs, paid firefighters or fire department equipment or other property shall also apply to combination fire departments unless otherwise noted.

Added by Laws 2003, c. 460, § 4, eff. July 1, 2003.

§29-303. Duties of volunteer firefighters of combination fire department.

Volunteer firefighters of a combination fire department shall:

1. Be required, when notified, to respond to alarms of fire and other emergencies;
2. Be required to be present at all regular meetings, call meetings and schools presented for the benefit of the firefighters;
3. Be dropped from a fire department's rolls if such volunteer firefighter has two unexcused absences in succession or three unexcused absences in a period of three (3) months;
4. Notify the chief if such volunteer firefighter is leaving the municipality for an extended period of time;
5. Be expelled from the rolls if such volunteer firefighter refuses to attend training classes provided for him or her;

6. Be expelled from the rolls for the following offenses:

- a. conduct unbecoming of a firefighter,
- b. any act of insubordination,
- c. neglect of duty,
- d. any violation of rules and regulations governing the fire department, or e. conviction of a felony; and

7. Reside in the same county as the combination fire department he or she is enrolled in or in a county that immediately borders the county in which the combination fire department is located. *Added by Laws 2003, c. 460, § 5, eff. July 1, 2003.*

§29-304. Volunteer Firefighter Recognition Program.

There is hereby created a "Volunteer Firefighter Recognition Program". This program shall recognize the following persons with a certification of recognition from the Governor:

1. Employers of volunteer firefighters who allow the firefighter time off for training and emergency responses; and
2. Volunteer firefighters for their service to the citizens of their community and to this state.

Added by Laws 2003, c. 460, § 6, eff. July 1, 2003.

GENERAL POWERS OF MUNICIPALITIES

§22-101.1 Political activities by municipal employees-Restrictions

Municipal employees may attend and express their views at city council meetings, or any other public meetings of municipal entities.

Any municipal employee may actively participate in partisan and nonpartisan political activities. Provided, the political activity in which the employee participates shall be exercised only during off-duty hours and while not in uniform. Any federal statutes restricting the political activities of certain municipal employees shall supersede the provisions of this section as to such employees. Municipal corporations may establish employment requirements requiring municipal employees to refrain from filing as a candidate for public office while employed by said municipality.

Added by Laws 1981, c. 311, § 1, eff. Oct. 1, 1981; Amended by Laws 1983, c. 276, § 1, em. eff. June 24, 1983.

§22-101.2. Employer coercion prohibited.

It shall be unlawful for the governing body or officer of any municipal corporation in this state to directly or indirectly coerce or attempt to coerce any municipal employee to participate or refrain from participation in municipal political activities or public meetings.

Added by Laws 1981, c. 311, § 2, eff. Oct. 1, 1981.

§22-101.3. Violations.

Any person convicted of violating any of the provisions of this act shall be guilty of a misdemeanor.

Added by Laws 1981, c. 311, § 3, eff. Oct. 1, 1981.

§22-113. Fire hazards and building location restrictions.

The municipal governing body may regulate the construction or suppression, and cleaning of any apparatus, fixtures, or equipment used in any building, manufactory, or business which may cause or promote fires, may prescribe limits within which dangerous or hazardous businesses may be carried on, and may adopt fire prevention codes and regulations. The governing body may impose penalties for the violation of such ordinances and may remove or abate any buildings constructed or located in violation of its ordinances.

Added by Laws 1977, c. 256, §22-113, eff. July 1, 1978; Amended by Laws 1984, c. 126, § 44 eff. Nov. 1, 1984.

§22-127 Establishing residency requirements

The municipal governing body by ordinance may designate which appointed officers and employees shall reside within the municipality; but police officers, firefighters and other municipal employees need not be actual residents of the municipality where they are employed in municipalities of five thousand (5,000) population or more, according to the latest federal census.

Added by Laws 1977, c. 256, §22-127, eff July 1, 1978.

LIABILITY AND INSURANCE

§23-101 Municipality to defend municipal employees in certain legal actions

A. Unless otherwise provided for in the Governmental Tort Claims Act, if an action is brought against a municipal employee in any civil action or special proceeding in the courts of this state or of the United States by reason of any act done or omitted in good faith in the course of employment, the governing body of the municipality shall direct the municipal attorney or other designated legal counsel to appear and defend the action or proceeding on the behalf of the employee in accordance with the provisions of Section 23-102 of this title. The municipal governing body shall not designate an attorney to represent a municipal employee if that employee did not perform a statutorily required duty and such duty is a basis of the civil action or special proceeding.

B. The municipal governing body may direct its attorney to intervene in any action or proceeding and to appear on behalf of the municipality, or any of its officers or employees, if the governing body deems the municipality to have an interest in the subject matter of the litigation.

C. A municipality may indemnify its employees for actual damages, fees and costs in accordance with the Governmental Tort Claims Act.

Added by Laws 1977, c. 256, § 23-101, eff July 1, 1978; Laws 1984, c. 126, § 48, eff Nov. 1, 1984; Laws 1992, c. 371, § 3, eff July 1, 1992.

§23-102. Defense of municipal employees - Procedure for request and defense.

If a municipality is to defend a municipal employee in a civil action or special proceeding as provided for in Section 23-101 of this title, the following procedure shall apply:

1. The employee shall make a written request to the governing body of the municipality within ten (10) days after service of summons on the employee. A copy of the request shall be transmitted by the employee to his immediate supervisor and to the municipal attorney or other designated legal counsel;

2. Before any defense is initiated, an inquiry shall be made by the municipal governing body of the facts upon which the action or special proceeding is based. Unless the governing body determines that the employee was acting in good faith and in the course of his employment, representation shall not be provided pursuant to the provisions of Section 23-101 of this title;

3. Upon the decision of the municipal governing body to provide representation for the employee, it shall direct an attorney to appear and defend the action. Said attorney shall determine the method of preparation and presentation of the defense and shall not be held civilly liable for the exercise of such discretion;

4. The employee named in the action may employ private counsel at his own expense to assist in his defense;

5. It shall be the duty of any municipal law enforcement agency to provide investigators at the request of the designated attorney to assist him in implementing the provisions of this section;

6. No findings or reports of the municipal governing body, the designated attorney, or persons making inquiry subject to their direction pursuant to the provisions of this section shall be discoverable or admissible as evidence in any such action or special proceeding, and no reference thereto shall be made in any such trial or hearing; and

7. Any officer or employee who acts outside the scope of his official authority shall be liable for damages in the same manner as any private citizen.

Added by Laws 1977, c. 256, §23-102, eff. July 1, 1978; Amended by Laws 1984, c. 126, §49, eff. Nov. 1, 1984.

§23-103. Cost of litigation when municipality defends municipal employee.

The cost of litigation in any case for which representation is provided pursuant to Sections 23-101 and 23-102 of this title shall be paid by the municipality. Cost of litigation shall include, but is not limited to, court cost, deposition expenses, travel and lodging, witness fees and other similar costs; except that this section shall not be construed as authorizing the payment by the municipality of any judgment making an award of monetary damages.

Added by Laws 1977, c. 256, § 23-103, eff. July 1, 1978.

§23-103.1. Employee defined.

As used in Sections 23-101 through 23-103 of this title, employee means any person who is acting or who has acted in behalf of a political subdivision or an agency whether that person is acting on a permanent or temporary basis, with or without being compensated or on a full-time or part-time basis. Employee also includes an elected or appointed officers, members of governing bodies and other persons designated to act for an agency or political subdivision, but shall not include independent contractors.

Added by Laws 1979, c. 44, § 6, emerg. eff. April 9, 1979.

§23-105. Ambulance service - Liability insurance - Employee benefits.

A. The governing body of any municipality or county may contract for ambulance service with the state or any of its agencies or any other municipality, county, person, firm, or corporation or combination thereof subject to such terms and conditions as may be agreed upon between the parties or in accordance with the requirements of the Interlocal Cooperation Act. Such contracts, if with a person, firm, or corporation, shall provide for the carrying of liability insurance in a sum of not less than the risk of liability of the municipality pursuant to the provisions of Section 154 of Title 51 of the Oklahoma Statutes.

B. Any employee of a municipality, county, or public trust, engaging in ambulance or emergency service provided by the employer shall be entitled to all benefits of any pension fund or insurance benefits to which such employee might otherwise be entitled. If the employee of any city, town, county, or public trust performs ambulance or emergency service in his off-duty hours in addition to such employee's principal employment, the time spent in such additional duty shall not be counted toward the person's pension and the compensation received shall not be used to calculate the pension that person may receive at some future time.

Added by Laws 1977, c. 256, § 23-105, eff. July 19, 1978; Amended by Laws 1984, c. 126, § 50, eff. Nov. 1, 1984.

§23-108. Hospital, health, life and accident insurance for municipal employees.

A. A municipality may provide hospital and medical benefits, accident, health, and life insurance, or any of the aforesaid, through any company authorized to do business in Oklahoma, for any or all of its officers or employees and their dependents, whether said officers or employees are engaged in a governmental or nongovernmental function of the municipality. A municipality may also provide such benefits when an officer or employee is ordered by proper authority to active duty in the National Guard or Reserve Corps of the Armed Forces of the United States. The municipality may pay a portion or all of said premiums from any municipal general funds, and may deduct from the wages or salary of any such officer or employee, upon written authority signed by the officer or employee, amounts for the payment of all or any portion of the monthly premium for same.

B. 1. For the purposes of and as used in this subsection:

- a. "affected municipality" means a municipality that provides hospital and medical benefits, accident and health insurance, or any of the aforesaid, for any or all of its officers or employees and their dependents pursuant to the provisions of subsection A of this section,
- b. "health insurance plan" means the hospital and medical benefits, accident and health insurance, or any of the aforesaid, provided by an affected municipality to its officers or employees pursuant to the provisions of subsection A of this section,
- c. "retired employee" means any officer or employee of an affected municipality who receives a continuing benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System, a municipal retirement system authorized pursuant to the provisions of Section 48-101 et seq. of this title, the Oklahoma Firefighters Pension and Retirement System, or the Oklahoma Police Pension and Retirement System, and who began receiving said benefits immediately after termination of employment, taking into consideration any administrative delays in establishing said continuing benefits, with an affected municipality, provided that the phrase "retired employee" shall include elected officers that have served eight (8) or more years with an affected municipality and the survivor of said elected officer or officer or employee, and
- d. "survivor" means a survivor of a retired employee who would have been eligible to make the election authorized by this subsection and shall be determined in accordance with the applicable rules of the retirement system from which said retired employee qualified to receive benefits. Provided, "survivor" shall also mean the surviving spouse or the surviving minor child or children of a person who was an employee or elected official of an affected municipality on or after July 1, 1992, and who continuously participated in the hospital and medical benefits insurance plan of said affected municipality at the time of the death of said employee.

2. Notwithstanding any other state or federal law, a retired employee may continue in force the health insurance plan offered by the affected municipality that last employed said retired employee.

3. To participate in the health insurance plan offered by a retired employee's affected municipality, the retired employee shall elect to participate in the health insurance plan within thirty (30) days from the date of termination of employment with said affected municipality.

4. The retired employee who participates in the health insurance plan pursuant to this subsection shall pay up to the full cost of said health insurance plan at the rates and pursuant to the terms and conditions established by the affected municipality, provided the amount of the retired employee's premiums and dependent premiums for said health insurance plan paid by said retired employee who is under sixty-five (65) years of age shall be no greater than one hundred twenty-five percent (125%) of the amount of the officer or employee premiums and dependent premiums for the health insurance plan paid by or on behalf of an officer or employee who is currently employed by the affected municipality.

5. An affected municipality that offers a health insurance plan in accordance with this section to its officers or employees and dependents shall offer the same health insurance plan to those retired employees and their dependents who elect to continue in force or participate in said health insurance plan in accordance with this subsection unless the retired employee or dependent is over sixty-five (65) years of age and qualifies for Medicare.

6. An affected municipality that provides a health insurance plan to retired employees pursuant to this subsection shall also offer a Medicare supplement plan to those retired employees and their dependents who are over sixty-five (65) years of age.

7. An affected municipality which participates in the plan or plans offered by the State and Education Employees Group Insurance Board shall not be subject to the provisions of this subsection so long as said participation continues.

8. If a retired employee who retires from an affected municipality that participates in a municipal retirement system authorized pursuant to the provisions of Section 48-101 et seq. of this title does not receive a continuing benefit from said municipal retirement system because of a lump sum distribution from said retirement system to said retired employee or because said municipal retirement system is discontinued, said retired employee shall be entitled to make the election authorized pursuant to this subsection if said retired employee was employed by the affected municipality for at least eight (8) years or was disabled due to a line-of-duty injury while employed by and unable to continue similar employment with said affected municipality.

C. Public and private educational institutions of the state not supported by any state appropriated funds may purchase annuity contracts for any of their full-time officers and employees from any insurance company organized and operated without profit to any private shareholder or individual exclusively for the purpose of aiding and strengthening educational institutions, whether or not such company be authorized to do business in Oklahoma.

Added by Laws 1977, c. 256, § 23-108, eff. July 1, 1978. Amended by Laws 1991, c. 232, § 2, emerg. eff. May 24, 1991; Laws 1992, c. 386, § 1, eff. July 1, 1992; Laws 1993, c. 50, § 1, em erg. eff. April 9, 1993; Laws 1995, c. 53, § 1, emerg. eff. April 10, 1995; Laws 2004, c. 515, § 4, eff. July 1, 2004.

COLLECTIVE BARGAINING

FIRE AND POLICE ARBITRATION

§51-101 Public policy of fire and police arbitration law

A. The protection of the public health, safety and welfare demands that the permanent members of any paid fire department or police department in any municipality not be accorded the right to strike or engage in any work stoppage or slowdown. This necessary prohibition does not, however, require the denial to such employees of other well-recognized rights of labor such as the right to organize, to be represented by a collective bargaining representative of their choice and the right to bargain collectively concerning wages, hours and other terms and conditions of employment; and such employees shall also have the right to refrain from any and all such activities.

B. It is declared to be the public policy of this state to accord to the permanent members of any paid fire department or police department in any municipality all of the rights of labor, other than the right to strike or to engage in any work stoppage or slowdown. Nothing in this article shall constitute a grant of the right to strike to fire fighters or police officers of any municipality and such strikes are hereby prohibited. Notwithstanding the provisions of any other law, any person holding such a position who, by concerted action with others and without the lawful approval of his superior, willfully absents himself from his position or abstains in whole or in part from the full, faithful and proper performance of his duties for the purpose of inducing, influencing or coercing a change in the conditions or compensation, or the rights, privileges or obligations of employment shall be deemed to be on strike but the person, upon request, shall be entitled to a determination as to whether he did violate the provisions of this article. The request shall be filed in writing with the officer or body having the power to remove or discipline such employee within ten (10) days after regular compensation of such employee has ceased or other discipline has been imposed. In the event of such request, the officer or body shall within ten (10) days after the receipt of such request commence a proceeding for the determination of whether the provisions of this article have been violated by the public employee, in accordance with the law and regulations appropriate to a proceeding to remove the public employee. The proceedings shall be undertaken without unnecessary delay. The decision of the proceeding shall be made within ten (10)

days following the conclusion of said hearing. If the employee involved is held to have violated this article and his employment terminated or other discipline imposed, he shall have the right of review to the district court having jurisdiction of the parties, within thirty (30) days from such decision, for determination whether such decision is supported by competent, material and substantial evidence on the whole record. To provide for the exercise of these rights, a method of arbitration of disputes is hereby established.

C. It is declared to be the public policy of the State of Oklahoma that no person shall be discharged from or denied employment as a member of any paid fire department or police department in any municipality of this state by reason of membership or nonmembership in, or the payment or nonpayment of any dues, fees or other charges to, an organization of such members for collective bargaining purposes as herein contemplated.

D. The establishment of this method of arbitration shall not, however, in any way whatever, be deemed to be a recognition by the state of compulsory arbitration as a superior method of settling labor disputes between employees who possess the right to strike and their employers, but rather shall be deemed to be a recognition solely of the necessity to provide some alternative procedure for settling disputes where employees must, as a matter of public policy, be denied the usual right to strike.

Added by Laws 1977, c. 256, § 51-101, eff. July 1, 1978.

§51-102 Definitions

As used in this article, unless the context requires a different interpretation:

1. "Fire fighters and police officers" shall mean the permanent paid members of any fire department or police department in any municipality within the State of Oklahoma but shall not include the chief of police and an administrative assistant and the chief of the fire department and an administrative assistant. The administrative assistant shall be that person so designated by the chief of the police department. "Police officers" as used herein shall be those persons as defined in Section 50-101 of this title.

2. "Corporate authorities" means the proper officials, singly or collectively, within any municipality whose duty or duties it is to establish the wages, salaries, rates of pay, hours, working conditions and other terms and conditions of employment of fire fighters or police officers, whether they be the mayor, city manager, town manager, town administrator, city council, town council, director of personnel, personnel board or commission, or by whatever other name the same may be designated, or any combination thereof. It is not the intent of this paragraph that the above-named officials shall in any way be exclusive or limiting.

3. "Strike" shall mean the concerted failure to report for duty, the willful absence from one's position, unauthorized holidays, sickness unsubstantiated by a physician's statement, the stoppage of work, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment, for the purpose of inducing, influencing or coercing a change in the conditions, compensation, rights, privileges or obligations of employment. Nothing contained in this article shall be construed to limit, impair or affect the right of any public employee to the expression or communication of a view, grievance, complaint or opinion on any matter related to the conditions or compensation of public employment or their betterment, so long as the same does not interfere with the full, faithful and proper performance of the duties of employment.

4. "Bargaining agent" shall mean any lawful association, fraternal organization, labor organization, federation or council having as one of its purposes the improvement of wages, hours and other conditions of employment among employees of fire and police departments.

5. "Collective bargaining" shall mean the performance of the mutual obligation of the municipal employer or his designated representatives and the representative of the employees to meet at reasonable times, including meetings appropriately related to the budget-making process; to confer in good faith with respect to wages, hours and other conditions of employment, or the negotiation of an agreement, or

any question arising thereunder; and to execute a written contract incorporating any agreement reached if requested by either party. Such obligation shall not, however, compel either party to agree to a proposal or require the making of a concession.

6. "Unfair labor practices" for the purpose of this article shall be deemed to include but not be limited to the following acts and conduct:

6a. Action by corporate authorities:

- (1) interfering with, restraining, intimidating or coercing employees in the exercise of the rights guaranteed them by this article;
- (2) dominating or interfering with the formation, existence or administration of any employee organization or bargaining agent;
- (3) interfering in any manner whatsoever with the process of selection by fire fighters or police officers of their respective bargaining agents or attempting to influence, coerce or intimidate individuals in such selection;
- (4) discharging or otherwise disciplining or discriminating against a police officer or fire fighter because he has signed or filed any affidavit, petition or complaint or has given any information or testimony under this article or because of his election to be represented by the bargaining agent;
- (5) refusing to bargain collectively or discuss grievances in good faith with the designated bargaining agent with respect to any issue coming within the purview of this article; or
- (6) instituting or attempting to institute a lockout.

6b. Action by bargaining agent:

- (1) interfering with, restraining, intimidating or coercing employees in the exercise of the rights guaranteed them by this article;
- (2) interfering with or attempting to coerce the corporate authorities in the selection of their representatives for the purposes of collective bargaining or the adjustment of grievances; or
- (3) refusing to bargain collectively or discuss grievances in good faith with the proper corporate authorities with respect to any issue coming within the purview of this article.

7. "Board" shall mean the Public Employees Relations Board.

Added by Laws 1977, c. 256, §5]-102, eff July], 1978.

§51-103 Collective bargaining rights-Petition-Hearing-Elections

A. Firefighters and police officers in any municipality shall have the separate right to bargain collectively with their municipality and to be represented by a bargaining agent in such collective bargaining with respect to wages, salaries, hours, rates of pay, grievances, working conditions and all other terms and conditions of employment.

B. Whenever, conformable to regulations that may be prescribed by the Public Employees Relations Board, herein created, a petition is filed by:

1. A labor organization alleging that thirty percent (30%) of the firefighters or police officers in a municipality:

a. wish to be represented for collective bargaining by an exclusive employee representative, or b. assert that the designated exclusive employee representative is no longer the representative of the majority of employees in the unit; or

2. The employer alleging that one or more labor organizations has presented to it a claim to be recognized as the exclusive employee representative in an appropriate unit;

the Board shall investigate the facts alleged therein and if it has reasonable cause to believe that a question of representation exists, it shall provide for an appropriate hearing upon due notice. If the Board finds upon the record of such hearing that such a question of representation exists, it shall direct

an election by secret ballot and shall certify the results thereof. The Board may also certify a labor organization as an exclusive employee representative if it determines that a free and untrammelled election cannot be conducted because of the employer's unfair labor practices.

C. Only those labor organizations which have been designated by more than ten percent (10%) of the employees in the unit found to be appropriate shall be placed on the ballot. Nothing in this section shall be construed to prohibit the waiving of hearing by stipulation for the purpose of a consent election, in conformity with the rules and regulations of the Board.

D. In order to assure to firefighters and police officers of any municipality the fullest freedom in exercising the rights guaranteed by this article, the Board shall decide in each case before it in which the issue is raised the unit appropriate for the purposes of collective bargaining, and shall consider such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees.

E. An election shall not be directed in any bargaining unit or in any subdivision thereof within which, in the preceding twelve-month period, a valid election has been held. The Board shall determine who is eligible to vote in the election and shall establish rules governing the election. In any election where none of the choices on the ballot receives a majority, but a majority of all votes cast are for representation by some labor organization, a run-off election shall be conducted. A labor organization which receives the majority of the votes cast in an election shall be certified by the Board as the exclusive employee representative.

Added by Laws 1977, c. 256, §51-103, eff. July 1, 1978.

§51-104 Public Employees Relations Board

A. There is hereby re-created, to continue until July 1, 2007, in accordance with the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of Title 74, the Public Employees Relations Board, which shall be composed of three (3) members appointed by the Governor, one of whom shall be designated as Chairman. The Chairman shall be appointed for a term of five (5) years, commencing from July 1, 1972. The other members shall be appointed for terms of one (1) and three (3) years, respectively, from July 1, 1972, but their successors shall be appointed for terms of five (5) years. Two members of the Board shall constitute a quorum. Any individual chosen to fill a vacancy on the Board shall be appointed only for the unexpired term. The Chairman and members of the Board shall not receive a salary but shall receive compensation in lieu of expenses in the amount of Fifty Dollars (\$50.00) per day for any meeting or the conduct of official duties, whether acting singly or collectively.

B. To accomplish the objectives and to perform the duties prescribed by this article, the Board may subpoena witnesses, issue subpoenas to require the production of books, papers, records, and documents which may be needed as evidence of any matter under inquiry, and administer oaths and affirmations. In cases of neglect or refusal to obey a subpoena issued to any person, the district court of the county in which the investigations or the public hearings are taking place, upon application by the Board, may issue an order requiring such person to appear before the Board and produce evidence about the matter under investigation. A failure to obey such order may be punished by the court as a contempt.

C. Any subpoena, notice of hearing, or other process or notice of the Board issued under the provisions of this article may be served personally, by registered mail, or by leaving a copy at the principal office of the person required to be served. A return made and verified by the individual making such service and setting forth the manner of such service is proof of service, and a returned post office receipt, when registered or certified mail is used, is proof of service.

D. The Board shall adopt, promulgate, amend, or rescind such rules as it deems necessary to carry out the provisions of this article. Public hearings shall be held by the Board on any proposed rule of general applicability designed to implement, interpret, or prescribe policy, procedure or practice

requirements under the provisions of this article and on any proposed change to such existing rule. Reasonable notice shall be given prior to such hearings, which shall include the time, place, and nature of such hearing and the terms or substance of the proposed rule or the changes to such rule.

Added by Laws 1977, c. 256, §51-104, eff. July 1, 1978; Laws 1983, c. 146, §1, operative July 1, 1983; Laws 1985, c. 178, §11, operative July 1, 1985; Laws 1986, c. 301, §18, operative July 1, 1986; Laws 1989, c. 140, §1, eff. July 1, 1989; Laws 1995, c. 13, §1; Laws 2001, c. 7, § 1.

§51-104a Employees-Duties and compensation-Operating expenditures

The Office of Public Affairs, in cooperation with the Chairman of the Public Employees Relations Board, is authorized to appoint and fix the duties and compensation of employees necessary to perform the responsibilities imposed upon the Public Employees Relations Board by law. The Office of Public Affairs is authorized to initiate or accept and process claims for personal services, consulting services, supplies, equipment, and other operating expenditures essential to the accomplishment of the duties imposed upon the Public Employees Relations Board by law.

Added by Laws 1983, c. 306, §6 operative July 1, 1983.

§51-104b Unfair Labor Practice-Prevention

A. The Public Employees Relations Board is empowered, as hereinafter provided, to prevent any person, including bargaining agent and corporate authorities, from engaging in any unfair labor practice as defined herein.

B. Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the Board shall have the power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Board, at a place therein fixed, not less than five (5) days after the serving of said complaint. The person so complained of shall have the right to file an answer and to appear and give testimony at the time and place fixed in the complaint. In the discretion of the Board, any other person may be allowed to intervene in such proceeding.

C. If upon the preponderance of the testimony taken the Board shall be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order. If upon the preponderance of the testimony taken the Board shall not be of the opinion that the person served in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue an order dismissing the complaint.

D. The Board, or any interested party, shall have the power to petition the district court, wherein the unfair labor practice in question occurred, for the enforcement of such order and for appropriate temporary relief of restraining order.

Added by Laws 1985, c. 148, § 1.

§51-105 Meet and Confer-Agreements

It shall be the obligation of the Municipality, acting through its corporate authorities, to meet at reasonable times and confer in good faith with the representatives of the fire fighters or police officers within ten (10) days after receipt of written notice from said bargaining agent requesting a meeting for collective bargaining purposes. The obligation shall include the duty to cause any collective bargaining agreement resulting from negotiations to be reduced to a written agreement, the term of which shall not exceed one (1) year; provided, any such agreement shall continue from year to year and be automatically extended for one-year terms unless written notice of request for bargaining is given by either the municipal authorities or the bargaining agent of the fire fighters or police officers at least thirty (30)

days before the anniversary date of such negotiated agreement. Within ten (10) days of receipt of such notice by the other party, a conference shall be scheduled for the purposes of collective bargaining, and until a new agreement is reached, the currently existing written agreement shall not expire and shall continue in full force and effect.

Added by Laws 1977, c. 256, §51-105, eff. July 1, 1978; Amended by Laws 1985, c. 148, §2.

§51-106 Arbitration

In the event that the bargaining agent and the corporate authorities are unable, within thirty (30) days from and including the date of the first meeting, to reach an agreement on a contract, any and all unresolved issues shall be submitted to arbitration, upon request of either party.

Added by Laws 1977, c. 256, §51-106, eff. July 1, 1978.

§51-107 Arbitrators-Selection

Within five (5) days from the date of the request for arbitration referred to in Section 51-106 of this title, the bargaining agent and the corporate authorities shall each select and name one arbitrator and shall immediately thereafter notify each other in writing of the name and address of the person so selected. The two arbitrators so selected and named shall, within five (5) days from and after the expiration of the five-day period hereinabove mentioned, agree upon and select a third arbitrator. If, on the expiration of the period allowed therefor, the arbitrators are unable to agree upon the selection of a third arbitrator, the bargaining agent and the corporate authorities shall request the Federal Mediation and Conciliation Service to provide a list of five arbitrators. Within five (5) days after receipt of the list of arbitrators from the Federal Mediation and Conciliation Service, the two arbitrators already selected shall alternately strike the name of one arbitrator from the list of five until one name remains, with the employer making the first strike from said list. The third arbitrator, whether selected as a result of an agreement between the two arbitrators previously selected or selected from the list provided by the Federal Mediation and Conciliation Service, shall act as chairman of the arbitration board.

Added by Laws 1977, c. 256, §51-107, eff. July 1, 1978.

§51-108 Collective Bargaining-Hearing and Opinions

A. 1. The arbitration board acting through its chair shall call a hearing to be held within ten (10) days after the date of the appointment of the chair and shall, acting through its chair, give at least seven (7) days' notice in writing to each of the other two arbitrators, the bargaining agent and the corporate authorities of the time and place of such hearing.

2. At least seven (7) days before the date of the hearing the corporate authorities and the bargaining agent shall submit to each other and to the arbitration board members a written arbitration statement listing all contract terms which the parties have resolved and all contract issues which are unresolved. Each arbitration statement shall also include a final offer on each unresolved issue. The terms and offers contained in the arbitration statements shall be known collectively as each party's last best offer.

3. The hearing shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other data deemed relevant by the arbitrators may be received in evidence. The arbitrators shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records, and other evidence relative or pertinent to the issues presented to them for determination. A hearing shall be concluded within twenty (20) days from the time of commencement.

4. Within seven (7) days after the conclusion of the hearing, a majority of the arbitration board members shall select one of the two last best offers as the contract of the parties. The criteria to be used by the board in determining which offer to select shall be limited to paragraphs 1 through 5 of Section 51-109 of this title. The arbitration board may not modify, add to or delete from the last best offer of

either party. Written notice of the selection decision shall be mailed or delivered to the bargaining agent and the corporate authorities.

B. If the city's last best offer is not selected by the arbitration board, that party may submit the offers which the parties submitted to the arbitration board to the voters of the municipality for their selection by requesting a special election for that purpose. The request for an election must be filed with the clerk of the municipality within ten (10) days of the date of the written decision of the arbitration board. Written notice of the filing of the request shall be given to the bargaining agent. If a request for an election is not filed in a timely manner, the board's selection decision shall be final, and the last best offer it selected shall constitute the agreement of the parties.

C. Upon receiving a request for an election pursuant to the provisions of this section, the clerk shall notify the mayor and governing body of the request. Within ten (10) days of such notification the municipal authorities shall call for a special election. The election shall be governed by the state laws on special municipal elections. Only residents of the municipality shall be eligible to vote in said election. The ballot shall inform the voters that they must choose either the last best offer of the bargaining agent or the last best offer of the corporate authorities. Within twenty (20) days of the decision to call for the election, the municipal authorities and the bargaining agent shall agree on a ballot. If no agreement is reached within that time, each party shall present a proposed ballot to the arbitration board. The parties shall present their ballot to the board no later than seven (7) days after the aforementioned twenty-day period. The board shall consider the proposed ballots and shall select one or the other within seven (7) days of the date of receipt of the parties proposed ballots. The last best offer receiving a majority of the votes shall become the agreement of the parties.

D. Concerning issues relating to money, such ballot shall clearly state the total dollar amount of the offer from the corporate authority and the total dollar amount of the offer from the bargaining agent. Such ballot shall also disclose the percentage of increase or decrease both offers have over or under the last contract of the two parties.

E. Agreements which are reached as a result of selection by the arbitration board or by election shall be effective on the first day of the fiscal year involved regardless of the date of the final selection. *Added by Laws 1977, c. 256, §51-108, eff July 1, 1978; Amended by Laws 1985, c. 148, §3; Laws 1994, c. 139, § J; Laws 2000, c. 358, §1, eff July 1, 2000; Laws 2004, c. 126, § 1, eff Nov. 1, 2004.*

§51-109 Factors to be considered

The arbitrators shall conduct the hearings and render their decision upon the basis of a prompt, peaceful and just settlement of all submitted disputes between the firefighters or police officers and the corporate authorities. The factors, among others, to be given weight by the arbitrators in arriving at a decision shall include:

1. Comparison of wage rates, insurance, retirement, other fringe benefits or hourly conditions of employment of the fire department or police department in question with prevailing wage rates or hourly conditions of employment of skilled employees of the building trades and industry in the local operating area involved;

2. Comparison of wage rates, insurance, retirement, other fringe benefits or hourly conditions of employment of the fire department or police department in question with wage rates or hourly conditions of employment maintained for the same or similar work of employees exhibiting like or similar skills under the same or similar working conditions in the local operating area involved;

3. Comparison of wage rates, insurance, retirement, other fringe benefits or hourly conditions of employment of the fire department or police department in question with wage rates or hourly conditions of employment of fire departments or police departments in cities, towns or other political subdivisions of comparable size and economic status both within and without the State of Oklahoma;

4. Interest and welfare of the public and revenues available to the municipality; or

5. Comparison of peculiarities of employment in regard to other trades or professions, including specifically:

- a. hazards of employment,
 - b. physical qualifications,
 - c. educational qualifications,
 - d. mental qualifications, and e.
- job training and skills.

Added by Laws 1977, c. 256, §51-109, ejf July 1, 1978.

§51-110 Fees and expenses

Fees and necessary expenses of the arbitrator selected by the bargaining agent and the arbitrator selected by the corporate authorities shall be borne by the bargaining agent and the corporate authorities respectively. The reasonable fees and necessary expenses of the third arbitrator shall be borne equally by the bargaining agent and corporate authorities.

Added by Laws 1977, c. 256, § 51-110, ejf July 1, 1978.

§51-111 Agreements-Contents

Any agreement actually negotiated between the bargaining agent and the corporate authorities either before or within thirty (30) days after arbitration shall constitute the collective bargaining contract governing fire fighters or police officers in the municipality for the period stated therein; provided that such period shall not exceed one (1) year. Any collective bargaining agreement negotiated under the terms and provisions of this article shall specifically provide that the fire fighters or police officers who are subject to its terms shall have no right to engage in any work stoppage, slowdown or strike, the consideration for such provision being the right to a resolution of disputed questions. All rules, regulations, fiscal procedures, working conditions, departmental practices and manner of conducting the operation and administration of fire departments and police departments currently in effect on the effective date of any negotiated agreement shall be deemed a part of said agreement unless and except as modified or changed by the specific terms of such agreement. Every such agreement shall contain a clause establishing arbitration procedures for the immediate and speedy resolution and determination of any dispute which may arise involving the interpretation or application of any of the provisions of such agreement or the actions of any of the parties thereunder. In the absence of such negotiated procedure such dispute may be submitted to arbitration in accordance with the provisions of Sections 51-107 through 51-110 of this title, except that the arbitration board shall be convened within ten (10) days after demand therefor by the bargaining agent upon the corporate authority or authorities. In such case the arbitration board's determination shall be final.

Added by Laws 1977, c. 256, §51-111. ejf July 1, 1978; Amended by Laws 1985, c. 148, §4.

§51-112 Matters requiring appropriation of moneys-Notice

Whenever wages, rates of pay or any other matters requiring appropriation of moneys by any municipality are included as matters of collective bargaining conducted under the provisions of this article, it is the obligation of the bargaining agent to serve written notice of request for collective bargaining on the corporate authorities at least one hundred twenty (120) days before the last day on which moneys can be appropriated by the municipality to cover the contract period which is the subject of the collective bargaining procedure.

Added by Laws 1977, c. 256, §51-112, ejf July 1, 1978.

§51-113 Penalties

It shall be unlawful for any collective bargaining representative or member of a paid fire department or police department to strike or engage in any work stoppage; and it shall further be unlawful for any

official, executive, administrator, manager, or member of a governing body exercising the authority to fix and determine the salaries, hours of work, and employment conditions of any paid fire or police department of a municipality in this state to fail to bargain in good faith in accordance with the provisions of this article. Any person or persons guilty of violating the provisions of this article shall be fined not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) for such offense, and each day during which such violation occurs or continues shall constitute a separate offense, and any such conviction shall be grounds for immediate dismissal from public employment, for any persons so employed.

Added by Laws 1977, c. 256, §51-113, eff July 1,1978.

TITLE EIGHTEEN

OKLAHOMA STATUTES

CHARITABLE AND FRATERNAL CORPORATIONS

§592 Fire departments for unincorporated areas-Incorporation

The authority of persons associated together to become incorporated as a charitable corporation for the purpose of providing either a volunteer or full-time fire department for an unincorporated area or place is hereby ratified and confirmed. Such a corporate fire department shall have authority to provide fire protective service both to its members and to nonmembers, either within or without the unincorporated area wherein it is situated.

Added by Laws 1957, p. 142, §1; Amended by Laws 1983, c. 100, §17, em erg. eff May 9,1983.

§593 Fire departments for unincorporated areas-Service fees-Insurance

A. Any charitable corporation formed for the purpose of providing either a volunteer or a full-time fire department, pursuant to Section 592 of this title, shall have authority to establish a reasonable schedule of fees to be charged for its services in extinguishing fires of its members and nonmembers who utilize such fire department to extinguish or control a fire either within or without the unincorporated area wherein it is situated. Such schedule of fees may contain one fee for members and another fee for nonmembers, except that no fee shall be established in excess of the approximate cost of providing the service. Any member or nonmember utilizing the services of such a fire department to extinguish or control a fire shall be liable to said corporation in the amount of the established fee. However, no fee shall be charged by a fire department for merely appearing at the scene of a controlled fire unless called by the person setting the fire or at such person's request. If it is necessary for suit to be brought for collection of such amount due, such liability shall include costs of suit and a reasonable attorney's fee.

B. If insurance coverage is provided for the fee specified in subsection A of this section or for the cost of providing the service rendered by the fire department and an insurer makes payment for the service it shall be the duty of the insured party or the responding fire department to notify the insurer of services rendered. The instrument of payment for the services of the fire department shall be made to the order of the responding fire department and the insured.

Added by Laws 1957, p. 142, §2; Amended by Laws 1983, c. 100 §18, ember. eff May 9, 1983; Laws 1989, c. 172, §1, emerg. eff May 8, 1989; Laws 1993, c. 8, §1, emerg. eff Sept. 1, 1993.

§594 Fire departments for unincorporated areas-Status as state agency-Non liability for tort

Any charitable corporation formed in an unincorporated area for the purpose of providing either a volunteer or a full-time fire department, such as is mentioned in Section 592 of this title, shall be considered an agency of the State of Oklahoma while actually performing the function of providing fire protective services either within or without the unincorporated area wherein it is situated, and while so engaged such corporation shall not be liable in tort for the acts of its members or its firemen.

Added by Laws 1957, p. 142, §3; Amended by Laws 1983, c. 100, §19 em erg. efJ. May 9, 1983.

TITLE NINETEEN

OKLAHOMA STATUTES

COUNTY FIRE DEPARTMENTS

§351 Organization of county fire departments-Participation in Oklahoma Firefighters Pension and Retirement System-Code of minimum rules and regulations-Funds required to be maintained

A. The board of county commissioners of each county of this state is hereby authorized to provide firefighting service in the county and for such purpose to use county funds to rent, lease or purchase firefighting equipment and to rent or construct and equip and operate fire stations and to employ necessary personnel to provide such service. The board of county commissioners shall also have the authority to determine and collect charges for fire fighting services performed by the county from any person to whom such services are provided.

B. The board of county commissioners of each county of this state shall have the power to take by grant, purchase, gift, devise or lease, and to dispose of, any real property for the purpose of acquiring right-of-ways and easements necessary in providing firefighting services to the county, including the construction and maintenance of roads and the installation of dry hydrants. The board may use county funds and equipment to construct and maintain such roads and to install such dry hydrants. Provided, nothing in this subsection shall be construed to prohibit the installation of dry hydrants on privately owned property by the owner thereof at the expense of the owner.

C. The board of county commissioners of each county of this state shall have the authority to use county personnel operating county equipment to fight fires in situations where an emergency is determined to exist, provided the firefighting service is requested by the county civil defense director or upon a request of a rural fire department.

D. 1. A corporate fire department organized pursuant to the provisions of Section 592 of Title 18 of the Oklahoma Statutes or a county fire department organized pursuant to the provisions of subsection A of this section may petition the board of county commissioners of the county in which the fire department provides protection to convert to a county fire department organized pursuant to the provisions of this subsection. The petition shall set forth and particularly describe the proposed boundaries of such county fire department and shall be accompanied by a map of such proposed fire department, drawn to a scale of not less than one (1) inch to a mile. The petition shall also set forth the administration, control and ownership of all the corporate fire department's assets in the event such petition is approved. Such petition shall be filed with the county clerk of such county who shall present it to the board of county commissioners at their next regular or special meeting. Upon presentation of such petition, the board of county commissioners shall set the same for hearing at a time not less than twenty (20) days nor more than forty (40) days from the date of presentation and shall direct the county clerk to give notice of such hearing by publication in a newspaper of general circulation in the county in which the proposed county fire department is located. Such notice shall describe the boundaries of the proposed county fire department, shall state the time and place of the hearing, and shall state that any

person may appear and protest the organization of the county fire department or the proposed boundaries thereof. The board of county commissioners shall hold the hearing described in said notice, and it shall have jurisdiction to hear and determine all protests to the creation of such county fire department and all matters pertaining to the same. It may amend the plan of such proposed county fire department by excluding from within its boundaries any lands which it may deem will not be benefited by the formation of such county fire department, or by including other lands as a part thereof upon application of the owners of such land; provided, however, it shall not exclude from such district any unincorporated lands which are completely surrounded by lands which are included in the proposed county fire department. If the board of county commissioners determines that the conversion of such corporate fire department to a county fire department will be conducive to the public safety of the affected area therein, then said board shall give such proposed county fire department a name and shall authorize and approve the organization of said county fire department.

2. To be eligible to convert to a county fire department formed pursuant to this subsection, a fire department shall have a Public Protection Classification of nine (9) or better from ISO Commercial Risk Services, Inc., limit the size of such volunteer county fire department to not less than six or more than twenty members per fire station, and shall be subject to the laws of the State of Oklahoma regarding the administration and operation of a fire department, including, but not limited to, the laws of the State Department of Labor and the State Fire Marshal Commission. For purposes of this subsection, a volunteer fire department is one which has in its employ not more than two full-time salaried firefighters.

3. Directors of a county fire department organized pursuant to this subsection shall be owners of real property in and residents of said district. At the time of making its order organizing such county fire department, the board of county commissioners shall appoint five directors, one of which shall hold his or her respective office for a term of five (5) years, one of which shall hold his or her respective office for a term of four (4) years, one of which shall hold his or her respective office for a term of three (3) years, one of which shall hold his or her respective office for a term of two (2) years, and one of which shall hold his or her respective office for a term of one (1) year. On or before January 1, 2002, the board of county commissioners shall, for fire departments which operate more than five fire stations, appoint additional directors of a county fire department until the number of directors equals the number of fire stations operated by that county fire department. Each additional director shall be appointed by the board of county commissioners for a term that matches the term of one of the first five directors appointed. Whenever a new fire station is added to a county fire department which has five or more fire stations, the board of county commissioners shall appoint an additional director from that district in which the new fire station has been added. Each year thereafter, there shall be appointed by the board of county commissioners for a term of five (5) years so many members as are necessary to replace all members whose terms are expiring on the board of directors for such county fire department.

4. The board of directors of a county fire department organized pursuant to this subsection shall select one of its members to serve as chair and shall appoint a clerk and a treasurer. The board of directors shall fix the term and duties of the chair, clerk and treasurer. The chair and members of the board of directors shall serve without compensation. The treasurer shall give an official bond, in an amount fixed and with sureties approved by the board of county commissioners, conditioned upon the faithful accounting for all money pertaining to the county fire department and coming into his or her hands.

5. The board of directors of a county fire department organized pursuant to this subsection shall have the following powers and duties:

- a. to manage and conduct the business affairs of such county fire department,
- b. to make and execute all necessary contracts,

- c. to purchase or lease-purchase and maintain all necessary and convenient engines, hoses, hose carts or other appliances and supplies for the full equipment of a fire company or department from available funds,
- d. to appoint the fire chief, fire company officers and employees (whether paid or volunteer), sufficient to maintain and operate the equipment owned by the county fire department,
- e. to take by grant, purchase, gift, devise or lease, and to dispose of real or personal property of every kind necessary for the operation of the county fire department,
- f. to construct or otherwise acquire from available funds suitable firehouses and other buildings or structures suitable for the housing of equipment and supplies of the county fire department, or for carrying on its own business and affairs,
- g. to employ such officers and employees as may be required from available funds, fix their compensation and prescribe their duties,
- h. to establish rules for such county fire department and for the prevention of fires and conflagrations within the department's boundaries and for the protection of property at and during any fire,
- l. to do any and all other things necessary and proper in the management and operation of the county fire department for the purpose of protecting property within its boundaries from fire, and
- J. to prepare an annual budget and follow existing laws pertaining to the budget process such as public notice, public hearings, protest periods and filing requirements in the same manner as they apply to other forms of government in Oklahoma.

6. The board of directors of a county fire department organized pursuant to this subsection may submit an application to include the firefighters of such county fire department in the Oklahoma Firefighters Pension and Retirement System. The application for participation in the Oklahoma Firefighters Pension and Retirement System shall be submitted in accordance with subsection A of Section 49-105.2 of Title 11 of the Oklahoma Statutes. For purposes of complying with Sections 49-103 and 49-104 of Title 11 of the Oklahoma Statutes, the chair, clerk and treasurer of the board of directors of the county fire department shall serve on the local firefighters pension and retirement board along with three firefighters of such county fire department elected by the members of the county fire department. The chair of the board of directors of the county fire department shall be the chair of the local board of the county fire department and the clerk of the board of directors of the county fire department shall be the secretary of the local board of the county fire department. The chair of the local board of the county fire department shall have a casting vote with the members of the local board of the county fire department only when necessary to avoid a tie vote. The local board of the county fire department shall promulgate such rules as may be necessary to ensure the orderly conduct of a local board meeting. While participating in the Oklahoma Firefighters Pension and Retirement System, the board of directors, local board and fire chief of the county fire department shall perform all administrative requirements of the pension system.

7. Any board of directors of a county fire department organized pursuant to this subsection having volunteers enrolled as members of such county fire department shall adopt a code of minimum rules and regulations in substantial compliance with the following:

a. Fire chief.

(1) The fire chief shall be at the head of the department, subject to the laws of the State of Oklahoma, rules of the board of directors, and the rules and regulations herein adopted.

(2) The fire chief shall be held responsible for the general condition and efficient operation of the department, the training of members, and the

performance of all other duties imposed upon him or her by law or the board of directors.

(3) The fire chief may inspect or cause to be inspected by members of the department, the fire hydrants, cisterns and other sources of water supply at least twice a year.

(4) The fire chief shall maintain a library or file of publications on fire prevention and fire protection and shall make use of the library or file to the best advantage of all members.

(5) The fire chief shall make every effort to attend all fires and direct the officers and members of the fire department in the performance of their duties.

(6) The fire chief shall see that the citizens are kept informed on fire hazards within the boundaries of the department and on the activities of the department.

(7) The fire chief shall see that each fire is carefully investigated to determine its cause, and in the case of suspicion of incendiarism shall notify proper authorities. The fire chief shall secure and preserve all possible evidence for future use in the case of a suspicious incendiarism.

(8) The fire chief shall file the appropriate activity report forms with the Office of the State Fire Marshal in Oklahoma City on an annual basis. The activity report forms shall be designed by the State Fire Marshal and shall include, but not be limited to, the amount of property and vehicle fire loss, types of fires, inspections and investigations. The report shall include notification of all fire-related civilian deaths and injuries in the respective jurisdiction and of firefighter deaths in the line of duty and of firefighter injuries in the line of duty requiring the services of a hospital or physician or both.

b. Assistant fire chief.

In the absence of the fire chief, the assistant fire chief on duty shall command the department and be held responsible therefore in all respects with the full powers and responsibilities of the fire chief.

c. Company officers.

The company officers shall be selected upon their ability to meet the following requirements:

- (1) their knowledge of fire fighting, (2) their leadership ability, and
- (3) their knowledge of firefighting equipment. d.

Secretary-treasurer.

One member elected by the fire department shall be secretary-treasurer. His or her duties shall consist of the following:

- (1) calling the roll at the opening of each meeting, (2) keeping the minutes of each meeting, and
- (3) collecting any money due the department by the members. e.

New members.

(1) An applicant of a participating county fire department of the Oklahoma Firefighters Pension and Retirement System shall meet the membership requirements of the Oklahoma Firefighters Pension and

Retirement System before he or she may be appointed as a new member of the county fire department.

(2) A new member shall be on probation for one (1) year after his or her appointment.

(3) A new member of a participating county fire department of the Oklahoma Firefighters Pension and Retirement System shall be immediately emolled as a member of the Oklahoma Firefighters Pension and Retirement System regardless of whether such member has completed his or her probation period.

(4) The majority of the fire department members must approve new volunteer members upon completion of their probation period.

f. Bylaws.

The bylaws of the department shall include:

(1) All volunteer firefighters are required, when notified, to respond to fire alarms and other emergencies.

(2) A volunteer firefighter is required to be present at all regular meetings, call meetings and schools presented for the benefit of the firefighters.

(3) There shall be at least one regular business meeting each month. (4) Any volunteer firefighter having two unexcused absences in succession or three unexcused absences in a period of three (3) months will be dropped from the fire department rolls.

(5) Volunteer firefighters leaving the boundaries of the department for an extended period of time will be required to notify the fire chief.

(6) Any volunteer firefighter refusing to attend training classes provided for him or her will be dropped from the fire department rolls.

(7) Any volunteer member of the fire department shall be dropped from the fire department rolls for the following offenses:

(a) conduct unbecoming a firefighter,

(b) any act of insubordination,

(c) neglect of duty,

(d) any violation of rules and regulations governing the fire department, or

(e) conviction of a felony.

8. a. A county fire department organized pursuant to the provisions of this subsection shall maintain, according to its own accounting needs, some or all of the funds and account groups in its system of accounts that are consistent with legal and operating requirements and as prescribed by the State Auditor and Inspector. The required funds may include, but not be limited to:

(1) a general fund, to account for all monies received and disbursed for general department purposes, including all assets, liabilities, reserves, fund balances, revenues and expenditures which are not accounted for in any other fund or special ledger account,

(2) special revenue funds, as required, to account for the proceeds of specific revenue sources that are restricted by law to expenditures for specific purposes,

(3) a capital improvement fund, to account for financial resources segregated for acquisition, construction or other improvement related to capital facilities, and

(4) a ledger or group of accounts in which to record the details relating to the general fixed assets of the county or department.

b. Funds raised by a nonprofit organization for the purpose of supporting the fire protection services of a county fire department organized pursuant to the provisions of this subsection, whether such funds were raised before or after a corporate fire department converts to a county fire department, shall not be commingled with public funds and shall be used only for designated benevolent or charitable purposes, including, but not limited to, fire protection purposes.

c. No expenditure may be authorized or made by any employee or member of the board of directors of a county fire department organized pursuant to the provisions of this subsection which exceeds any fund balance of any fund of the budget as adopted or amended or which exceeds the appropriation for any fund of the budget as adopted or amended. Any balance remaining in a fund at the end of the budget year shall be carried forward to the credit of the fund for the next budget year. It shall be unlawful for any employee or member of the board of directors of a county fire department organized pursuant to the provisions of this subsection in any budget year to create or authorize creation of a deficit in any fund.

Added by Laws 1953, p. 32, § 2, emerg. eff June 8, 1953. Amended by Laws 1957, p. 120, § 1, emerg. eff May 9, 1957; Laws 1986, c. 171, § 1, emerg. eff May 9, 1986; Laws 1990, c. 67, § 1, emerg. eff April 16, 1990; Laws 1996, c. 65, § 2, emerg. eff April 9, 1996; Laws 1998, c. 299, § 3, emerg. eff May 28, 1998; Laws 2001, c. 189, § 1, eff Nov. 1.2001.

FIRE PROTECTION DISTRICTS

§901.1 Organization authorized

Whenever twenty-five percent (25%) of the holders of title to lands outside of the corporate limits of any incorporated city or town shall petition the board of county commissioners of the county in which such area owned by them is located for the formation of a fire protection district, and compliance had with the provisions of this act, the said board of county commissioners shall enter its order organizing such district, and when so organized such district shall have the powers conferred herein or such as hereafter may be conferred by law upon such fire protection districts.

Added by Laws 1949, p. 153, § 1.

§901.7. Powers and duties of directors.

A. The board of directors shall have the power and duty to:

1. Manage and conduct the business affairs of such district;
2. Make and execute all necessary contracts;
3. Purchase or lease-purchase and maintain all necessary and convenient engines, hoses, hose carts or other appliances and supplies for the full equipment of a fire company or department;
4. Appoint fire company officers and employees, sufficient to maintain and operate the equipment owned by such district;
5. Take by grant, purchase, condemnation, gift, devise or lease, and to dispose of, real or personal property of every kind necessary for the operation of the district;
6. Construct or otherwise acquire suitable firehouses and other buildings or structures suitable for the housing of equipment and supplies of the district, or for carrying on its own business and affairs;
7. Employ such officers and employees as may be required, fix their compensation and prescribe their duties;

8. Establish rules and regulations for the district and for the prevention of fires and conflagrations within the district and for the protection of property at and during any fire;

9. Prepare an annual budget and follow existing laws pertaining to the budget process such as public notices, public hearings, protest periods and filing requirements in the same manner as they apply to other forms of government in Oklahoma;

10. Determine vacancies of the board of directors, fill vacancies and conduct board elections in the event of a vacancy on the board of directors;

11. Develop bylaws for the due and orderly administration of the affairs of the board of directors and for its responsibilities specified pursuant to this chapter, and may compel the attendance of absent members in the manner and under penalties as the board may prescribe; and

12. Do any and all other things necessary and proper in the management and operation of the district for the purpose of protecting property within its boundaries from fire.

B. A fire protection district, created pursuant to this chapter, shall be deemed a political subdivision of this state. The board may submit an application to include the fire fighters of the district in the Oklahoma Firefighters Pension and Retirement System. The application for affiliation shall be submitted in accordance with subsection A of Section 49-105.2 of Title 11 of the Oklahoma Statutes. *Added by Laws 1949, p. 155, § 7. Amended by Laws 1982, c. 89, § 1; Laws 1982, c. 320, § 7, operative July 1, 1982; Laws 1983, c. 95, § 2, emerg. eff May 9, 1983; Laws 1987, c. 202, § 21, eff June 1, 1987; Laws 1992, c. 397, § 5, eff July 1, 1992; Laws 1997, c. 221, § 2, eff Nov. 1, 1997.*

FIRE PROTECTION DISTRICTS - COLLECTIVE BARGAINING

§901.30. Grant of labor rights - Strikes, work stoppages or slowdowns prohibited - Violations - Arbitration.

A. It is declared to be the public policy of this state to accord to the full-time firefighters in a Rural Fire Protection District all of the rights of labor, other than the right to strike or to engage in any work stoppage or slowdown. Nothing in this act shall constitute a grant of the right to strike to any fulltime firefighter in a Rural Fire Protection District and such strikes are hereby prohibited. Unless otherwise provided by law, any person holding such a position who, by concerted action with others and without the lawful approval of the person's superior, willfully absents the person from his or her position or abstains in whole or in part from the full, faithful and proper performance of such person's duties for the purpose of inducing, influencing or coercing a change in the conditions or compensation, or the rights, privileges or obligations of employment shall be deemed to be on strike but the person, upon request, shall be entitled to a determination as to whether he or she did violate the provisions of this act. The request shall be filed in writing. The official or body with whom the request is filed shall have the power to remove or discipline such employee within ten (10) days after regular compensation of such employee has ceased or other discipline has been imposed. In the event of such request, the official or body shall within ten (10) days after the receipt of such request commence a proceeding for the determination of whether the provisions of this act have been violated by the full-time firefighter in a Rural Fire Protection District, in accordance with the law and regulations appropriate to a proceeding to remove a full-time firefighter in a Rural Fire Protection District. The proceedings shall be undertaken without unnecessary delay. The decision of the proceeding shall be made within ten (10) days following the conclusion of the hearing. If the employee involved is held to have violated this act and his or her employment terminated or other discipline imposed, the employee shall have the right of review in the district court having jurisdiction of the parties, within thirty (30) days from such decision, for determination whether such decision is supported by competent, material and substantial evidence on the whole record. To provide for the exercise of these rights, a method of arbitration of disputes is hereby established.

B. The establishment of this method of arbitration shall not, however, in any way whatever, be deemed to be a recognition by the state of compulsory arbitration as a superior method of settling labor disputes between employees who possess the right to strike and their employers, but rather shall be deemed to be a recognition solely of the necessity to provide some alternative procedure for settling disputes where employees must, as a matter of public policy, be denied the usual right to strike.

Added by Laws 2003, c. 136, § 1, elf Nov. 1, 2003.

RURAL FIRE PROTECTION PROGRAM FUND ACT

§901.56. Effectiveness of section - Coordinator defined - Consideration and determination of need of financial assistance - Certification - Distribution of monies - Expenditures.

A. The provisions of this section shall become effective when funds are made available for such purpose. Upon the availability of such funds, the State Department of Agriculture shall notify the coordinator of such available funds.

B. For the purposes of this section "coordinator" means the rural fire coordinator in each rural fire protection coordination district as defined in Section 901.61 of this title.

C. Upon notification of the State Department of Agriculture pursuant to subsection A of this section on or before the last day of June of each year that funds are available for such purpose, the district coordinators shall consider and determine the relative needs of participants for monies in the Rural Fire Protection Program Fund. Participants shall include incorporated cities under ten thousand (10,000) population according to the latest Federal Decennial Census, towns, and legally formed rural fire departments. Based upon the information available to him, the coordinator shall certify to the Commissioner of Agriculture the names of the incorporated cities, towns, and legally formed rural fire departments which he determines are in need of financial assistance from the Rural Fire Protection Program and the amount required by each in accordance with the provisions of this section. In making this determination and certification, the coordinator shall consider the intent and purpose of the Rural Fire Protection Program Fund Act. No incorporated city, town or legally formed rural fire department shall receive monies distributed from the Rural Fire Protection Program Fund merely for the purpose of accumulation when such monies are not required to accomplish the purposes of this section.

D. In making such determination of needs, the coordinator shall first determine that each fire department to be certified has been duly formed under the appropriate state statutes.

E. On or before the last day of August of each year, the State Department of Agriculture shall distribute the monies in the Rural Fire Protection Program Fund in the manner provided by law.

F. Any amount so distributed from the Rural Fire Protection Program Fund to any eligible participant shall be expended only for the maintenance of its fire department, the purchase, construction, maintenance, repair and operation of its fire stations, fire apparatus and equipment, the purchase, rental, installation or maintenance of tire hydrants, the payment of insurance premiums upon fire stations, fire apparatus and equipment, and insurance premiums for injuries or death of fire fighters, as otherwise provided by law. Provided, however, that no monies shall be expended from the fund for any purpose relating to the water supply systems of any participant, nor for the improvement or construction of such systems nor for any other appurtenances relating to the distribution or use of such water supply system. Monies so distributed from the Rural Fire Protection Program Fund to any eligible participant may also be expended, in an amount not to exceed ten percent (10%) of the allocated funds or the sum of One Thousand Dollars (\$1,000.00) in the aggregate during any period of one (1) year, whichever is larger, for the expense of any fire fighters attending a certified fire school.

G. No amount so distributed from the Rural Fire Protection Program Fund to any eligible participant shall be expended or obligated for the purchase of land or the construction of buildings for fire stations unless all obligations previously incurred for such purposes and to be paid from monies distributed from the Rural Fire Protection Program Fund by such eligible participant have been fully paid and satisfied. No monies from the fund shall be expended or obligated for the construction of buildings for fire stations unless the participant proposing to expend or obligate monies distributed from the Rural Fire Protection Program Fund for that purpose holds fee simple title, not encumbered by any lien, or holds a lease for a period of not less than ten (10) years, with provisions for renewal of the lease annually, to the land on which it proposes to construct any such building. Provided, however, that this provision shall not prohibit construction or location of a fire station on land donated in whole or part to the participant for the purpose, and use of Rural Fire Protection Program Fund monies for such construction or location, where the donor has reserved right or reversion of such land under stated conditions, if such use be appropriate and reasonable.

H. Amounts so distributed from the Rural Fire Protection Program Fund to any eligible participant shall be expended under the direction of the chief of the fire department upon duly executed vouchers approved as required by law. In no event shall any such monies to be expended for any purpose which does not relate to the permitted purposes specifically stated in this section.

Added by Laws]988, c. 294, § 2, operative July], 1988. Amended by Laws]992, c. 44, §], emerg. eff April 3,]992.

§901.57. Administration of grants.

A. When funds are made available for such purpose, the State Department of Agriculture shall administer grants from any monies which may be available for the purpose of the improvement of fire protection in rural areas of the State of Oklahoma, to the end that the hazard of loss by fire and fire insurance rates may be reduced and the public safety thereby promoted. Any such monies shall be distributed in the manner provided by law.

B. The State Department of Agriculture is authorized to allocate such monies obtained pursuant to subsection A of this section to eligible entities on a matching basis and such matching requirements may be fulfilled either in cash or in-kind. In addition, the State Department of Agriculture is authorized to establish preferential matching requirements for eligible entities which have Insurance Service Organization rates often (10) or which have other critical circumstances and needs which are determined by the State Department of Agriculture to justify preferential matching requirements.

C. 1. The State Department of Agriculture shall in writing notify the rural fire protection coordination districts of any available grant monies by August 1 st of each year.

2. Each rural fire protection coordination district desiring to obtain such grant monies for improvement of fire protection within such district shall submit such request to the Department, in such form and in such manner as required by the Department, by September 1, of each year.

3. The Forestry Division shall submit the final list of grantees and their approved amounts prior to the October meeting of the Board of Agriculture for consideration.

4. By October 1 of each year, the Department shall make a determination on the allocation of such monies to the rural fire protection coordination districts.

5. Upon approval, the Forestry Division shall distribute the forms required by law to all grantees to certify the grant. The prescribed form must be signed by the grantee and returned to the Forestry Division before the grant becomes official.

6. Expenditures made prior to the date of the grant award shall not be considered for reimbursement.

7. Fire departments shall submit copies of paid invoices, canceled checks or other proof of purchase, attached to the prescribed form when requesting reimbursement. No more than three (3) partial payment requests are permitted.

8. Fire departments shall keep complete and accurate records of grant expenditures and make this information available to the Forestry Division or the coordinators on request.

9. Approved claims shall be submitted by the Forestry Division for payment. Checks shall be sent promptly to the fire department's contact person when received.

10. The coordinators shall closely track the progress of all grantees in the assigned district to assure their completion by June 30. As of April 1, an assessment shall be made to determine the amount of grant funds which remain unobligated in each district, and therefore available to make additional grants within that district. The coordinators shall use the original prioritized list of grant applications to make additional grants, and submit a list of additional grantees and amounts to the Forestry Division for processing through the April meeting of the Board of Agriculture for approval. These grants are still subject to the June 30 cutoff for obligating grant funds. The same procedures will be used as for the first round of grants.

11. Follow-up compliance audits shall be performed by the coordinators and the Forestry Division of the State Department of Agriculture. Fire departments are required to cooperate fully during the audit.

D. In determining the amount of grant monies to be awarded to a rural fire protection coordination district pursuant to the provisions of this section, such district shall be eligible to receive an amount resulting from computing the number of fire departments with service area populations of less than ten thousand (10,000) persons in a rural fire protection coordination district divided by the total number of fire departments with service area populations of less than ten thousand (10,000) persons in this state multiplied by the total amount of the grant monies available to rural fire protection coordination districts in the state.

E. In addition to any other criteria established by the State Department of Agriculture for receipt of grant monies for rural fire protection coordination districts, the State Department of Agriculture, pursuant to the Administrative Procedures Act, Article I, Sections 250.3 through 308.2 and Article II, Sections 309 through 323 of Title 75 of the Oklahoma Statutes, shall establish criteria to rate and prioritize applications for funding such requests of the rural fire protection coordination districts. Such criteria shall include, but not be limited to, consideration for: number of residents, businesses and square miles to be protected; fire runs per calendar year; annual sales and property tax collection; use of volunteers; written fire plan or standard operating procedures plan; fundraising; training; compliance with legal requirements; and workers' compensation and vehicle liability insurance coverage.

Added by Laws 1988, c. 294, § 3, operative July 1, 1988. Amended by Laws 1989, c. 54, § 1, emerg. eff. April 14, 1989; Laws 1989, c. 377, § 14, operative July 1, 1989; Laws 1992, c. 44, § 2, em. eff. April 3, 1992.

§901.58. **Rural Fire Defense Equipment Revolving Fund.**

There is hereby created in the State Treasury a revolving fund for the State Department of Agriculture, to be designated the "Rural Fire Defense Equipment Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Agriculture from any monies received from appropriations, deposits made pursuant to the provisions of this act, proceeds resulting from the sale of equipment purchased out of monies in the fund, and such other monies specifically designated by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Department of Agriculture for the purpose of purchasing new firefighting equipment for purchase by rural fire departments and such other purposes specifically designated by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

Added by Laws 1988, c. 294, § 4, operative July 1, 1988. Amended by Laws 1989, c. 54, § 2, emerg. eff. April 14, 1989.

§901.59. Purchase of equipment - Acquisition of storage space.

A. The State Department of Agriculture is hereby authorized to use the Rural Fire Defense Equipment Revolving Fund to purchase new firefighting equipment for purchase by rural fire departments.

B. The State Department of Agriculture is hereby authorized to acquire space for storing firefighting equipment while not in possession of a fire department and to pay the necessary costs thereof from the Rural Fire Defense Equipment Revolving Fund as funds become available. *Added by Laws 1988, c. 294, § 5, operative July 1, 1988.*

§901.60. Sale of equipment - Rules and regulations.

A. The State Department of Agriculture is authorized to sell firefighting equipment to rural fire departments cooperating with the State Department of Agriculture in fire control under the terms of written cooperative agreements.

B. All proceeds derived from the sale of fire fighting equipment by the State Department of Agriculture pursuant to the provisions of this act shall be deposited with the State Treasurer to be credited to the Rural Fire Defense Equipment Revolving Fund.

C. The State Department of Agriculture shall promulgate such rules and regulations pursuant to the Administrative Procedures Act and is authorized to require from the rural fire departments such information, forms and reports as are "necessary for properly and efficiently administering this section and Section 4 of this act.

Added by Laws 1988, c. 294, § 6, operative July 1, 1988.

§901.61. Administration of rural fire protection program - Acquisition of federal excess property - Rural fire protection coordination districts.

A. The State Department of Agriculture is hereby directed to administer a rural fire protection program and is hereby authorized to acquire federal excess property for the support and operation of fire departments and fire districts.

B. For the purpose of coordination of improved rural fire protection, rural fire protection coordination districts are hereby created to consist of the following counties:

District 1, composed of Washington, Nowata, Craig, Ottawa, Mayes, Delaware and Rogers Counties.

District 2, composed of Wagoner, Cherokee, Adair, Sequoyah, Muskogee, Okmulgee and McIntosh Counties.

District 3, composed of Pittsburg, Haskell, LeFlore, Pushrnataha, Latimer, McCurtain and Choctaw Counties.

District 4, composed of Garvin, Pontotoc, Coal, Atoka, Johnston, Murray, Carter, Love, Marshall and Bryan Counties.

District 5, composed of Lincoln, Okfuskee, Hughes, Seminole, Pottawatomie, Payne, Creek and Pawnee Counties.

District 6, composed of Osage and Tulsa Counties.

District 7, composed of Alfalfa, Grant, Kay, Noble, Garfield, Major, Blaine and Kingfisher Counties.

District 8, composed of Canadian, Oklahoma, Cleveland and Logan Counties.

District 9, composed of Caddo, Comanche, Cotton, Grady, Jefferson, McClain, Stephens and Tillman Counties.

District 10, composed of Roger Mills, Custer, Washita, Beckham, Greer, Kiowa, Jackson and Harmon Counties.

District 11, composed of Cimarron, Texas, Beaver, Harper, Woods, Ellis, Woodward and Dewey Counties.

Added by Laws 1988, c. 294, § 7, operative July 1, 1988.

TITLE TWENTY -ONE

OKLAHOMA STATUTES

CRIMES AND PUNISHMENT

§1217 Firemen-Interference with performance of duties-Penalty

Any person or persons acting in concert with each other who knowingly and willfully interfere with, molest, or assault firemen in the performance of their duties, or who knowingly and willfully obstruct, interfere with or impede the progress of firemen to reach the destination of a fire, shall be deemed guilty of a felony and shall be punished therefor by imprisonment in the State Penitentiary for a term not exceeding ten (10) years nor less than two (2) years.

Added by Laws 1968, c. 90, § 1, emerg. eff. April 1, 1968. Amended by Laws 1997, c. 133, § 311, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 209, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 311 from July 1, 1998, to July 1, 1999.

CRIMES AGAINST PROPERTY

ARSON

§1401 Arson in the first degree-Punishment

Any person who willfully and maliciously sets fire to or burns, or by the use of any explosive device, accelerant, ignition device, heat-producing device or substance or while manufacturing or attempting to manufacture a controlled dangerous substance in violation of subsection G of Section 2-401 of Title 63 of the Oklahoma Statutes, destroys in whole or in part, or causes to be burned or destroyed, or aids, counsels or procures the burning or destruction of any building or structure or contents thereof, inhabited or occupied by one or more persons, whether the property of that person or another, or who willfully and maliciously sets fire to or burns, or by the use of any explosive device, accelerant, ignition device, heatproducing device or substance or while manufacturing or attempting to manufacture a controlled dangerous substance in violation of subsection G of Section 2-401 of Title 63 of the Oklahoma Statutes, causes a person to be burned, or aids, counsels or procures the burning of a person, shall be guilty of arson in the first degree, which is a felony, and upon conviction thereof shall be punished by a fine not to exceed Twenty-five Thousand Dollars (\$25,000.00) or be confined to the State Penitentiary for not more than thirty-five (35) years or both.

Added by Lmlls 1967, c. 115, § 1, emerg. eff. April 25, 1967. Amended by Laws 1979, c. 165, § 1, emerg. eff May 15,1979; Laws 1996, c. 145, § 1, eff. Nov. 1, 1996; Laws 1997, c. 133, § 347, eff July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 240, eff. July J, 1999; Laws 2001, c. 28, § 1, "If Nov. 1.2001.

NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 347 from July 1, 1998, to July 1, 1999.

§1402 Arson in the second degree-Punishment

Any person who willfully and maliciously sets fire to or burns or by the use of any explosive device or substance or while manufacturing or attempting to manufacture a controlled dangerous substance in violation of subsection G of Section 2-401 of Title 63 of the Oklahoma Statutes destroys in whole or in

part, or causes to be burned or destroyed, or aids, counsels or procures the burning or destruction of any uninhabited or unoccupied building or structure or contents thereof, whether the property of himself or another, shall be guilty of arson in the second degree, which is a felony, and upon conviction thereof shall be punished by a fine not to exceed Twenty Thousand Dollars (\$20,000.00) or be confined in the State Penitentiary for not more than twenty-five (25) years or both.

Added by Laws 1967, c. 115, § 2, em erg. eff. April 25, 1967. Amended by Laws 1979, c. 165, § 2, emerg. eff. May 15, 1979; Laws 1997, c. 133, § 348, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 241, eff. July 1, 1999; Laws 2001, c. 28, § 2, eff. Nov. 1, 2001.

NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 348 from July 1, 1998, to July 1, 1999.

§1403 Arson in the third degree-Punishment

A. Any person who willfully and maliciously sets fire to or burns or by the use of any explosive device or substance destroys in whole or in part, or causes to be burned or destroyed, or aids, counsels or procures the burning of any property whatsoever, including automobiles, trucks, trailers, motorcycles, boats, standing farm crops, pasture lands, forest lands, or any other property not herein specifically named, such property being worth not less than Fifty Dollars (\$50.00), whether the property of himself or another, shall be guilty of arson in the third degree, and upon conviction thereof shall be punished by a fine not to exceed Ten Thousand Dollars (\$10,000.00) or be confined in the State Penitentiary for not more than fifteen (15) years.

B. Any person who willfully and maliciously, and with intent to injure or defraud the insurer, sets fire to or burns or by use of any explosive device or substance destroys in whole or in part, or causes to be burned or destroyed, or aids, counsels, or procures the burning or destruction of any building, property, or other chattels, whether the property of himself or another, which shall at the time be insured against loss or damage by fire or explosion, shall be guilty of arson in the third degree, and upon conviction thereof shall be punished by a fine not to exceed Ten Thousand Dollars (\$10,000.00) or be confined in the State Penitentiary for not more than fifteen (15) years or both.

C. Arson in the third degree is a felony.

Added by Laws 1967, c. 115, §3, emerg. eff. April 25, 1967; Laws 1979, c. 165, §3, em erg. eff. May 15, 1979; Laws 1999, c. 5, § 242, eff July 1, 1999

§1404 Arson in the fourth degree-Punishment

A. Any person who willfully and maliciously attempts to set fire to or burn or attempts by use of any explosive device or substance to destroy in whole or in part, or causes to be burned or destroyed, or attempts to counsel or procure the burning or destruction of any building or property mentioned in Sections 1401, 1402 or 1403 of this title shall be guilty of arson in the fourth degree, and upon conviction thereof shall be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00) or be confined in the State Penitentiary for not more than ten (10) years or both.

B. The placing or distributing of any flammable, explosive or combustible material or substance or any device in any building or property mentioned in Sections 1401, 1402 or 1403 of this title, in an arrangement or preparation with intent to eventually willfully and maliciously set fire to or bum or to procure the setting fire to or burning of same, shall for the purposes of this section constitute an attempt to bum such building or property, and shall be guilty of arson in the fourth degree, and upon conviction thereof shall be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00), or be confined in the State Penitentiary for not more than ten (10) years, or both.

C. Arson in the fourth degree is a felony.

Added by Laws 1967, c. 115, § 4, em erg. eff. April 25, 1967. Amended by Laws 1979, c. 165, § 4, emerg. eff. May 15, 1979; Laws 1997, c. 133, § 350, eff. July 1,1999; Laws 1999, 1st Ex.Sess., c. 5, § 243, eff July 1,1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 350 from July 1, 1998, to July 1, 1999.

§1405 Arson against human life-Punishment

Any person violating any of the provisions of Sections 1401, 1402, 1403 or 1404 of this title who during such violation endangers any human life, including all emergency service personnel, shall be guilty of a felony and upon conviction shall be punished by imprisonment in the State Penitentiary for not less than three (3) years nor more than ten (10) years, or by a fine not to exceed Ten Thousand Dollars (\$10,000.00), or both. If personal injury results, the person shall be punished by imprisonment in the State Penitentiary for not less than seven (7) years.

Added by Laws 1996, c. 145, § 2, eff Nov. 1, 1996. Amended by Laws 1997, c. 133, § 351, eff July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 244, eff July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 351 from July 1, 1998, to July 1, 1999.

TITLE FORTY

OKLAHOMA STATUTES

OKLAHOMA MINIMUM WAGE ACT

§197.1. Declarations.

The welfare of the State of Oklahoma demands that the working people of Oklahoma be protected from conditions of labor which have a pernicious effect on their health or morals. The State of Oklahoma, therefore, exercising herein its police and sovereign power, declares that inadequate wages and insanitary conditions of labor exert such pernicious effect.

Added by Laws 1965, c. 427, § 1, emerg. eff July 8, 1965.

§197.2 Minimum wages established

It shall be unlawful to employ workers in any industry or occupation within the State of Oklahoma under conditions of labor detrimental to their health or morals and it shall be unlawful to employ workers in any industry within the State of Oklahoma at wages which are not adequate for their maintenance. Except as otherwise provided in the Oklahoma Minimum Wage Act, no employer within the State of Oklahoma shall pay any employee a wage of less than the current federal minimum wage for all hours worked.

Added by Laws 1965, c. 427, §2, emerg. eff July 8, 1965; Amended by Laws 1971, c.70, §1, eff July 1, 1971; Laws 1975, c. 221, §1, eff Sept. 1, 1975; Laws 1976, c. 53, §1, eff Sept. 15, 1976; Laws 1977, c. 266, §2, eff Oct. 1, 1977; Laws 1980, c. 203, §1, eff Oct. 1, 1980; Laws 1983, c. 60, §1, eff Nov. 1, 1983.

USE OF TOBACCO PRODUCTS

§500 Nonsmoking as condition of employment It

shall be unlawful for an employer to:

1. Discharge any individual, or otherwise disadvantage any individual, with respect to compensation, terms, conditions or privileges of employment because the individual is a nonsmoker or smokes or uses tobacco products during nonworking hours; or

2. Require as a condition of employment that any employee or applicant for employment abstain from smoking or using tobacco products during nonworking hours.

Added by Laws 1991, c. 172, §1J, emerg. eff May 8, 1991; Amended by Laws 1991, c.295, §3, eff May 29, 1991.

§501 Construction of act - Conditions relating to smoking

The provisions of Sections 11 through 14 of this act shall not be construed to prevent an employer from prescribing conditions with regard to smoking while on the job or on the premises of the employer. *Added by Laws 1991, c. 172, § 12, emerg. eff May 8, 1991.*

§502 Application of act - Restriction on smoking as bona fide occupational requirement or part of collective bargaining agreement

The provisions of Sections 11 through 14 of this act shall not apply when the restriction on smoking relates to a bona fide occupational requirement or an applicable collective bargaining agreement which prohibits or allows off-duty use of tobacco products.

Added by Laws 1991, c. 172, § 13, emerg. eff May 8, 1991.

§503 Action for damages - Costs and attorney fees

A. The sole remedy for any individual claiming to be aggrieved by a violation of Section 11 of this act shall be a civil action for damages which shall include all wages and benefits deprived the individual by reason of the violation.

B. The court shall award the prevailing party in such action court costs and reasonable attorney fees.

Added by Laws 1991, c. 172, § 14, emerg. eff May 8, 1991.

TITLE FORTY -SEVEN

OKLAHOMA STATUTES

COMPULSORY LIABILITY INSURANCE

§7-601.2 Insurance carriers prohibited from canceling, terminating, increasing or requiring higher premiums for certain peace officers, firefighters or emergency vehicle operators

No insurance carrier issuing a vehicle liability policy pursuant to this article to a person employed as a peace officer, firefighter, or operator of emergency vehicles as defined in Title 47 of the Oklahoma Statutes, in this state shall cancel, terminate, increase the premiums due on such policy, or require such officer, firefighter, or operator of emergency vehicles to pay higher premiums because of any accident in which such person was involved if the accident occurred in the performance of the duty of such person. The provisions of this section shall apply whether or not the motor vehicle driven by the peace officer, firefighter, or operator of emergency vehicles as defined in Title 47 of the Oklahoma Statutes, involved in the accident was owned by such person.

Added by Laws 1985, c. 129, § 1, eff Nov. 1, 1985.

TITLE SEVENTY-FOUR

OKLAHOMA STATUTES

THE OKLAHOMA CENTRAL PURCHASING ACT

§85.7 Competitive bid or proposal procedures - (partial presentation of section)

A. 1. Except as otherwise provided by the Oklahoma Central Purchasing Act, no state agency shall make an acquisition for an amount exceeding Twenty-five Thousand Dollars (\$25,000.00) without

submission of a requisition to the State Purchasing Director and submission of suppliers' competitive bids or proposals to the State Purchasing Director.

2. Any acquisition a state agency makes shall be made pursuant to the Oklahoma Central Purchasing Act and rules promulgated pursuant thereto.

a. Split purchasing for the purpose of evading the requirement of competitive bidding shall be a felony.

b. The State Purchasing Director may waive or increase the limit of Twenty-five Thousand Dollars (\$25,000.00) for a state agency acquisition by not more than ten percent (10%) to perfect an otherwise valid acquisition inadvertently exceeding the limit due to administrative error by the state agency or unforeseeable circumstances. The state agency shall request a waiver upon the discovery of the error or circumstance to the State Purchasing Director on a form the Director requires.

c. The State Purchasing Director shall report all requests for waivers or increases, stating the amount and whether the request was granted or denied, monthly to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives.

3. a. Contracts for master custodian banks or trust companies, investment managers, investment consultants, and actuaries for the state retirement systems, Compsource Oklahoma, State and Education Employees Group Insurance Board, pension fund management consultants of the Oklahoma State Pension Commission and the Commissioners of the Land Office, and other professional services as defined in Section 803 of Title 18 of the Oklahoma Statutes shall be exempt from competitive bidding procedures of Section 85.4 of this title.

b. Contracts with financial institutions to act as depositories and managers of the Oklahoma College Savings Plan accounts shall be exempt from competitive bidding procedures.

c. A state agency that makes an acquisition pursuant to this paragraph shall notify the State Purchasing Director within fifteen (15) days following completion of the acquisition. The Department of Central Services shall compile a list of the exempt contracts and send the list to a member of the Appropriations and Budget Committee of the House of Representatives or Appropriations Committee of the Senate, if the member requests.

§85.58B. Risk management insurance coverage - Fire protection.

A. The Risk Management Administrator, pursuant to the provisions of this section and Section 85.34 of this title, may obtain or provide insurance coverage for any vehicle, vessel or aircraft used for or in fire fighting or services provided by the districts, departments and services specified in subsection D of this section and may obtain or provide indemnity coverage for any board member, official, employee or volunteer of any entity specified in subsection D of this section for any errors and omissions or liability risks arising from the performance of their official duties pursuant to law.

B. The Risk Management Administrator, pursuant to the provisions of this section and Section 85.34 of this title, may obtain or provide insurance coverage for any building used for or in fire fighting or services specified in subsection D of this section. If a fire department, district or service specified in subsection D of this section is housed in a building with any department or unit of local governmental entities, the Risk Management Administrator may also obtain or provide building or structure insurance coverage for such department or unit in such building.

C. The Risk Management Administrator is authorized to determine eligibility criteria for participation in the Risk Management Program by such districts, departments and services or for such member, officer, employee or volunteer. In addition, the Risk Management Administrator is authorized to establish equipment and safety standards for the vehicles, vessels, aircraft or buildings to be covered by the Risk Management Program.

D. The Risk Management Administrator may obtain or provide the insurance coverage authorized by subsection A of this section for:

1. Fire protection districts organized and operated pursuant to the provisions of Sections 901.1 through 901.29 of Title 19 of the Oklahoma Statutes;

2. Volunteer or full-time fire departments established pursuant to Section 592 of Title 18 of the Oklahoma Statutes;

3. Municipal fire departments organized and operated pursuant to the provisions of Sections 29101 through 29-108, and Sections 29-201 through 29-205 of Title 11 of the Oklahoma Statutes;

4. Fire protection services established pursuant to the provisions of Section 351 of Title 19 of the Oklahoma Statutes; and

5. Rural fire coordinators employed by substate planning districts acting pursuant to rural fire defense programs.

E. The governing authorities of such fire departments, fire protection districts and fire protection services shall be required to make payments for such insurance coverage as provided by Section 85.37 of this title.

F. Requests for the insurance or indemnity coverage provided pursuant to the provisions of this section shall be submitted in writing to the Risk Management Administrator by the fire departments, fire protection districts or fire protection services specified in subsection C of this section. Those fire departments, fire protection districts or fire protection services meeting eligibility criteria shall be approved for participation in the Risk Management Program by the Risk Management Administrator if the member, officer, employee or volunteer, and the vehicles, vessels, aircraft and buildings used by districts, services or departments meet the equipment and safety standards and eligibility requirements established by the Risk Management Administrator.

G. Any insurance or indemnity coverage shall be obtained or provided solely from funds available in the shared risk pool authorized by Section 85.34B of this title. Any coverage limits shall be based on the liquidity of the shared risk pool resulting from the annual payments made pursuant to Section 85.37 of this title and any interest accrued thereon, after deduction of such sums as may be necessary to pay all overhead and administrative expenses associated with administering the pool.

H. Any limited indemnity coverage provided for errors and omissions pursuant to the provisions of this subsection shall only cover errors or omissions made by a board member, official, employee or volunteer of any entity specified in subsection C of this section occurring after the effective date of this act.

1. The State of Oklahoma is not liable, directly or indirectly, for the errors and omissions of any board member, official, employee or volunteer of any entity specified in subsection C of this section in the performance of his official duties pursuant to law. The State of Oklahoma is not liable, directly or indirectly, for the negligence of any entity specified in subsection C of this section.

J. In providing risk management services for any entity specified by subsection C of this section or any such board member, official, employee or volunteer of such entity, it is the intention of the Legislature to provide coverage solely to the extent of assets in the shared risk pool created by Section 85.34B of this title.

K. Any liability insurance coverage obtained or provided shall include expenses for legal services obtained or provided by the Risk Management Administrator.

Added by Laws 1987, c. 14, § 1, emerg. ejJ. April 13, 1987. Amended by Laws 1991, c. 84, § 1, ejJ. July 1, 1991; Laws 1992, c. 44, § 4, emerg. ejJ. April 3, 1992; Laws 1994, c. 329, § 4, ejJ. July 1, 1994. Renumbered from § 85.34A of this title by Laws 1998, c. 371, § 15, ejJ. Nov. 1, 1998.

TITLE EIGHTY-FIVE

OKLAHOMA STATUTES

WORKERS' COMPENSATION

§2b Coverage for certain public employees

A. 1. All public entities of this state, their agencies and instrumentalities, authorities and public trusts of which they are beneficiaries shall provide workers' compensation to their employees and elected officials engaged in either governmental or proprietary functions in accordance with this section. Compensation or indemnification for compensation shall be paid out of the funds of such public entities.

2. Except as otherwise provided, the state and all its institutions of higher education, departments, instrumentalities, institutions and public trusts of which it or they are beneficiaries shall insure against liability for workers' compensation with the State Insurance Fund and shall not insure with any other insurance carrier unless:

- a. the State Insurance Fund refuses to accept the risk when the application for insurance is made;
- b. specifically authorized by law; or
- c. the state entity can obtain workers' compensation insurance coverage at the same cost or at a lower cost from another insurance carrier licensed in this state. Effective November 1, 1999 and for the next two fiscal years thereafter, not to exceed fifteen (15) state entities each fiscal year may obtain workers' compensation insurance coverage pursuant to this subparagraph from an insurer other than the State Insurance Fund. Beginning with the third fiscal year thereafter, all state entities may obtain workers' compensation insurance coverage pursuant to this subparagraph.

3. The state, all state institutions of higher education except comprehensive universities, and all state departments, instrumentalities, institutions, and public trusts of which the state is a beneficiary, may self-insure under rules promulgated by the State Insurance Fund. Self-insurance administration may only be obtained through the State Insurance Fund. The state, all state institutions of higher education except comprehensive universities, and all state departments, instrumentalities, institutions and public trusts so electing to self-insure shall pay premiums set by the State Insurance Fund. The State Insurance Fund shall collect premiums, pay claims and provide for excess insurance. All dividends or profits accumulating from a self-insurance program shall be refunded to the participants on a formula devised by the State Insurance Fund.

B. All counties, cities and towns, their instrumentalities and public trusts of which they are beneficiaries shall insure against their liability for workers' compensation with the State Insurance Fund; or through any combination of the following may:

1. Self-insure and make any appropriation of funds to cover their risk;
2. Secure reinsurance or excess insurance over and above a self-insurance retention in any manner authorized by subsections B and C of Section 167 of Title 51 of the Oklahoma Statutes;
3. Secure compensation for their employees in the manner provided in the Political Subdivision Tort Claims Act, subsection C of Section 167 of Title 51 of the Oklahoma Statutes;
4. Insure with other insurance carriers licensed in the State of Oklahoma.

C. Boards of education, their instrumentalities and public trusts of which they are beneficiaries shall insure against their liability for workers' compensation with the State Insurance Fund; or through any combination of the following, may:

1. Self-insure and make any appropriation of funds to cover their risk;
2. Secure reinsurance or excess insurance over and above a self-insurance retention in any manner authorized by subsections B of Section 168 of Title 51 of the Oklahoma Statutes; or 3. Insure with other insurance carriers licensed in the State of Oklahoma.

D. Comprehensive universities shall insure against their liability for workers' compensation with the State Insurance Fund; or if it can be demonstrated to the Board of Regents of the comprehensive university prior to the inception date of a workers' compensation policy that the policy will result in a lower cost than one with the State Insurance Fund, or, through any combination of the following, may;

1. Self-insure and make any appropriation of funds to cover their risks; or 2. Insure with other insurance carriers licensed in the State of Oklahoma.

E. In addition to any other provision of this section, city, county, city-county and public trust hospitals may insure with other insurance carriers licensed in this state if it can be demonstrated to the governing body of the hospital prior to the inception date of the workers' compensation policy each year that the policy will result in a lower cost than one with the State Insurance Fund.

F. For purposes of the Workers' Compensation Act, all contracts of employment for state, county, municipal, and state funded educational entities and public trusts will be considered to have been entered into in this state regardless of where the work is performed.

G. Where a person who is employed by the state, municipality, a county, or by any political subdivision thereof, and who, while off-duty from the employment, is employed by a private employer, the private employer alone shall be liable for compensation under the Workers' Compensation Act for any injury or death of the person arising out of and in the course of employment which occurs during the hours of actual employment by the private employer. The provision of Section 11 of this title shall be applicable to private employers specified in this subsection. The provisions of this subsection shall not relieve the state, a municipality or a county, or any political subdivision thereof, from providing disability benefits to which a person may be entitled pursuant to a pension or retirement plan. The provisions of this subsection shall not preclude an employee or group of employees so employed from providing separate compensation coverage for off-duty employment by a private employer.

Laws 1955, p. 486, §1; Laws 1977, c. 234, §5, elf July], 1978; Laws 1980, c. 340, §1, em erg. elf June 25, 1980; Laws 1981, c. 105, §1, elf July 1, 1981; Laws 1982, c. 110, §1; Laws 1982, c. 27], §2, operative July 1, 1982; Laws 1986, c. 222, §4, emerg. elf Nov.], 1986; Laws 1995, c. 326, §2, emerg. elf June 8, 1995; Laws 1995, c. 328, §14, elf July], 1995; Laws 1996, c. 3, §24, elf March 6, 1996; Laws 1999, c. 420 § 3, elf November 1, 1999; Laws 2000, c. 248, § 7, elf Sept.], 2000.

