

Special Report: City of Spencer Fire Chief Case

On September 29, 2009, the Oklahoma Supreme Court held that all firefighters (including the fire chief) must be members of the State Firefighter Pension System if their employer is a participating municipality. If any firefighter is hired who does not meet the System's definition of "member", the System has statutory authority to bring a lawsuit to have the offending firefighter terminated from employment. See *State ex rel. Oklahoma Firefighters Pension and Retirement System v. City of Spencer*, 2009 OK 73.

The City of Spencer hired a fire chief who was 49 years old. Because of his age and lack of previous creditable service to the System, he was not then nor could he now become eligible for retirement at age 65 as required by 11 O.S. Section 49-135. The Pension System filed a lawsuit in 2005 asking the court to order the Chief's termination. Although it was found that he did not meet the System's definition of "member" the district court and the court of appeals declined to terminate his employment.

The key portion of the attached case is Paragraph 14. The Oklahoma Supreme Court finds broad authority for the Pension System to bring enforcement actions to "enforce the provisions of applicable state law under its administration." Since the fire chief is defined as a "member" under 11 O.S. Section 49-100.1(6), he/she "shall meet the age, agility, physical and *other eligibility requirements* required by law." (Emphasis is the Courts).

The nature of Declaratory Relief, including the authorization to "liberally construe" needed "further relief" is discussed in Paragraph 15. This "further relief" includes a district court's "broad discretion to fashion both legal and equitable relief." Therefore, "once a determination of rights, status or legal relationship has been made, 'further relief' may be granted whenever such relief becomes necessary and proper."

What all this adds up to is the authority of the court's to terminate a firefighter's employment when he cannot be a member of the Pension System. As a consequence, in this case, the chief cannot continue with his/her duties while being placed in the municipal pension system

[Back To Story Page](#)