

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SENATE BILL 603

By: Shortey

AS INTRODUCED

An Act relating to the Oklahoma Police Pension and Retirement System; amending 11 O.S. 2011, Sections 50-101, 50-109 and 50-110, which relate to definitions and contribution amounts; modifying definitions; authorizing election by municipal police officers performing law enforcement duties for counties; requiring county to make employer contributions; requiring officer to make employee contributions; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 50-101, is amended to read as follows:

Section 50-101. As used in this article:

1. "System" means the Oklahoma Police Pension and Retirement System and all predecessor municipal Police Pension and Retirement Systems;

2. "Article" means Article 50 of this title;

3. "State Board" means the Oklahoma Police Pension and Retirement Board;

1 4. "Fund" means the Oklahoma Police Pension and Retirement
2 Fund;

3 5. "Officer" means any duly appointed and sworn full-time
4 officer of the regular police department of a municipality whose
5 duties are to preserve the public peace, protect life and property,
6 prevent crime, serve warrants, enforce all laws and municipal
7 ordinances of this state, and any political subdivision thereof, and
8 who is authorized to bear arms in the execution of such duties; and
9 shall also include an officer who is employed by a county, who
10 performs law enforcement services as the direct employee of a
11 county, or who performs law enforcement services for a county
12 pursuant to an agreement between the municipality which is the
13 regular employer of the officer and a county;

14 6. "Member" means all eligible officers of a participating
15 municipality and any person hired by a participating municipality
16 who is undergoing police training to become a permanent police
17 officer of the municipality. Effective July 1, 1987, a member does
18 not include a "leased employee" as defined under Section 414(n)(2)
19 of the Internal Revenue Code of 1986, as amended. Effective July 1,
20 1999, any individual who agrees with the participating municipality
21 that the individual's services are to be performed as a leased
22 employee or an independent contractor shall not be a member
23 regardless of any classification as a common law employee by the
24 Internal Revenue Service or any other governmental agency, or any

1 court of competent jurisdiction. A member shall include eligible
2 commissioned officers of the Oklahoma State Bureau of Narcotics and
3 Dangerous Drugs Control, the Oklahoma State Bureau of Investigation,
4 and the Alcoholic Beverage Laws Enforcement Commission who elect to
5 participate in the System pursuant to Section 50-111.5 of this
6 title;

7 7. "Normal retirement date" means the date at which the member
8 is eligible to receive the unreduced payments of the member's
9 accrued retirement benefit. Such date shall be the first day of the
10 month coinciding with or following the date the member completes
11 twenty (20) years of credited service. If the member's employment
12 continues past the normal retirement date of the member, the actual
13 retirement date of the member shall be the first day of the month
14 after the member terminates employment with more than twenty (20)
15 years of credited service;

16 8. "Credited service" means the period of service used to
17 determine the eligibility for and the amount of benefits payable to
18 a member. Credited service shall consist of the period during which
19 the member participated in the System or the predecessor municipal
20 systems as an active employee in an eligible membership
21 classification, plus any service prior to the establishment of the
22 predecessor municipal systems which was credited under the
23 predecessor municipal systems or credited service granted by the
24 State Board;

1 9. "Participating ~~municipality~~ employer" means a municipality
2 which is making contributions to the System on behalf of its
3 officers and any county which employs an officer that makes an
4 election to continue participation in the System pursuant to Section
5 2 of this act either because the officer becomes the direct employee
6 of a county or because the officer performs law enforcement services
7 for a county pursuant to an agreement between the municipality that
8 is the regular employer of the officer and a county. The Oklahoma
9 State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma
10 State Bureau of Investigation, and the Alcoholic Beverage Laws
11 Enforcement Commission shall be treated in the same manner as a
12 participating municipality only regarding those members who elect to
13 participate in the System pursuant to Section 50-111.5 of this
14 title;

15 10. "Permanent total disability" means incapacity due to
16 accidental injury or occupational disease, to earn any wages in the
17 employment for which the member is physically suited and reasonably
18 fitted through education, training or experience. Further, the
19 member must be declared one hundred percent (100%) impaired as
20 defined by the "American Medical Association's Guides to the
21 Evaluation of Permanent Impairment" on the basis of a physical
22 medical examination by a physician licensed to practice medicine in
23 this state, as selected by the State Board;

1 11. "Permanent partial disability" means permanent disability
2 which is less than permanent total disability as defined in this
3 section. The member must be declared no greater than ninety-nine
4 percent (99%) impaired as defined by the "American Medical
5 Association's Guides to the Evaluation of Permanent Impairment" on
6 the basis of a physical medical examination by a physician licensed
7 to practice medicine in this state, as selected by the State Board;

8 12. "Permanent in-line disability" means incapacity to earn any
9 wages as a certified, commissioned police officer due to accidental
10 injury or occupational disease, incurred while in, and in
11 consequence of, the performance of duty as an officer;

12 13. "Beneficiary" means a member's surviving spouse or any
13 surviving children, including biological and adopted children, at
14 the time of the member's death. The surviving spouse must have been
15 married to the member for the thirty (30) continuous months
16 immediately preceding the member's death, provided a surviving
17 spouse of a member who died while in, and as a consequence of, the
18 performance of the member's duty for a participating municipality,
19 shall not be subject to the thirty-month marriage requirement for
20 survivor benefits. A surviving child of a member shall be a
21 beneficiary until reaching eighteen (18) years of age or twenty-two
22 (22) years of age if the child is enrolled full time and regularly
23 attending a public or private school or any institution of higher
24 education. Any child adopted by a member after the member's

1 retirement shall be a beneficiary only if the child is adopted by
2 the member for the thirty (30) continuous months preceding the
3 member's death. Any child who is adopted by a member after the
4 member's retirement and such member dies accidentally or as a
5 consequence of the performance of the member's duty as a police
6 officer shall not be subject to the thirty-month adoption
7 requirement. This definition of beneficiary shall be in addition to
8 any other requirement set forth in this article;

9 14. "Executive Director" means the managing officer of the
10 System employed by the State Board;

11 15. "Eligible employer" means any municipality with a municipal
12 police department and any county which employs an officer pursuant
13 to Section 2 of this act;

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

17 17. "Final average salary" means the average paid base salary
18 of the member for normally scheduled hours over the highest salaried
19 thirty (30) consecutive months of the last sixty (60) months of
20 credited service.

21 a. Base salary shall not include payment for accumulated
22 sick and annual leave upon termination of employment,
23 severance pay or any uniform allowances. Provided,
24 for purposes of determining the normal disability

1 benefit, final average salary shall be based on the
2 member's total service if less than thirty (30)
3 months. Base salary shall include any amount of
4 elective salary reduction under Section 457 of the
5 Internal Revenue Code of 1986, as amended, and any
6 amount of nonelective salary reduction under Section
7 414(h) of the Internal Revenue Code of 1986, as
8 amended. Effective January 1, 1988, base salary shall
9 include any amount of elective salary reduction under
10 Section 125 of the Internal Revenue Code of 1986, as
11 amended. Effective July 1, 1998, gross salary shall
12 include any amount of elective salary reduction not
13 includable in the gross income of the member under
14 Section 132(f)(4) of the Internal Revenue Code of
15 1986, as amended. Only salary on which required
16 contributions have been made may be used in computing
17 the final average salary.

- 18 b. In addition to other applicable limitations, and
19 notwithstanding any other provision to the contrary,
20 for plan years beginning on or after July 1, 2002, the
21 annual compensation of each "Noneligible Member" taken
22 into account under the System shall not exceed the
23 Economic Growth and Tax Relief Reconciliation Act of
24 2001 (EGTRRA) annual compensation limit. The EGTRRA

1 annual compensation limit is Two Hundred Thousand
2 Dollars (\$200,000.00), as adjusted by the Commissioner
3 for increases in the cost of living in accordance with
4 Section 401(a)(17)(B) of the Internal Revenue Code of
5 1986, as amended. The annual compensation limit in
6 effect for a calendar year applies to any period, not
7 exceeding twelve (12) months, over which compensation
8 is determined ("determination period") beginning in
9 such calendar year. If a determination period
10 consists of fewer than twelve (12) months, the EGTRRA
11 annual compensation limit will be multiplied by a
12 fraction, the numerator of which is the number of
13 months in the determination period, and the
14 denominator of which is twelve (12). For purposes of
15 this section, a "Noneligible Member" is any member who
16 first became a member during a plan year commencing on
17 or after July 1, 1996.

18 c. For plan years beginning on or after July 1, 2002, any
19 reference in the System to the annual compensation
20 limit under Section 401(a)(17) of the Internal Revenue
21 Code of 1986, as amended, shall mean the EGTRRA annual
22 compensation limit set forth in this provision.

23 d. Effective January 1, 2008, base salary shall also
24 include base salary, as described above for services,

1 but paid by the later of two and one-half (2 1/2)
2 months after a member's severance from employment or
3 the end of the calendar year that includes the date
4 the member terminated employment, if it is a payment
5 that, absent a severance from employment, would have
6 been paid to the member while the member continued in
7 employment with the participating municipality.

- 8 e. Effective January 1, 2008, any payments not described
9 above shall not be considered base salary if paid
10 after severance from employment, even if they are paid
11 by the later of two and one-half (2 1/2) months after
12 the date of severance from employment or the end of
13 the calendar year that includes the date of severance
14 from employment, except payments to an individual who
15 does not currently perform services for the
16 participating municipality by reason of qualified
17 military service within the meaning of Section
18 414(u) (5) of the Internal Revenue Code of 1986, as
19 amended, to the extent these payments do not exceed
20 the amounts the individual would have received if the
21 individual had continued to perform services for the
22 participating municipality rather than entering
23 qualified military service.

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1 f. Effective January 1, 2008, back pay, within the
2 meaning of Section 1.415(c)-2(g)(8) of the Income Tax
3 Regulations, shall be treated as base salary for the
4 limitation year to which the back pay relates to the
5 extent the back pay represents wages and compensation
6 that would otherwise be included in this definition.

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

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

14 19. "Normal disability benefit" means two and one-half percent
15 (2 1/2%) of the member's final average salary multiplied by twenty
16 (20) years;

17 20. "Limitation year" means the year used in applying the
18 limitations of Section 415 of the Internal Revenue Code of 1986, as
19 amended, which year shall be the calendar year;

20 21. "Paid base salary" means, effective May 1, 2002, all
21 compensation that shall include longevity, educational allowances,
22 and normal compensation paid on a regularly scheduled pay period of
23 which said pay period shall include holidays, annual leave and sick
24 leave. Paid base salary shall not include overtime, shall not

1 include payment for accumulated sick and annual leave upon
2 termination of employment, and shall not include any uniform
3 allowance or any other compensation for reimbursement of out-of-
4 pocket expenses; and

5 22. "Actuarial equivalent" means equality in value of the
6 aggregate amounts expected to be received based on interest rate and
7 mortality assumptions set by the State Board, in a manner that
8 precludes employer discretion, and based upon recommendations from
9 independent professional advisors, and which shall be published
10 annually in the actuarial report.

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 50-101.1A of Title 11, unless
13 there is created a duplication in numbering, reads as follows:

14 A. Effective July 1, 2015, any officer employed by a
15 municipality that is an eligible employer of the Oklahoma Police
16 Pension and Retirement System who performs law enforcement services
17 as the direct employee of a county or who performs law enforcement
18 service for a county pursuant to an agreement between the
19 municipality, which is the regular employer of the officer, and a
20 county may elect to continue participation in the Oklahoma Police
21 Pension and Retirement System for any period of time the officer is
22 either a direct employee of a county or for any period of time the
23 officer is performing law enforcement services pursuant to a

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1 contract between the municipality, which is the regular employer of
2 the officer, and a county.

3 B. The county which is the direct employer of an officer making
4 the election authorized by subsection A of this section shall, for
5 all purposes of Sections 50-101 et seq. of Title 11 of the Oklahoma
6 Statutes, be deemed the employer of the officer and shall be
7 required to make employer contributions as required by Section 50-
8 109 of Title 11 of the Oklahoma Statutes.

9 C. The officer shall continue to make the required employee
10 contributions pursuant to Section 50-110 of Title 11 of the Oklahoma
11 Statutes.

12 SECTION 3. AMENDATORY 11 O.S. 2011, Section 50-109, is
13 amended to read as follows:

14 Section 50-109. Any municipality or county required by Section
15 2 of this act participating in the System shall appropriate funds,
16 for the use and benefit of the System, as provided in the following
17 schedule:

18 1. Prior to July 1, 1991, a minimum of ten percent (10%) of the
19 actual paid base salary of each member of the System employed by the
20 municipality;

21 2. Beginning July 1, 1991, a minimum of ten and one-half
22 percent (10 1/2%) of the actual paid base salary of each member of
23 the System employed by the municipality;

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1 3. Beginning July 1, 1992, a minimum of eleven percent (11%) of
2 the actual paid base salary of each member of the System employed by
3 the municipality;

4 4. Beginning July 1, 1993, a minimum of eleven and one-half
5 percent (11 1/2%) of the actual paid base salary of each member of
6 the System employed by the municipality;

7 5. Beginning July 1, 1994, a minimum of twelve percent (12%) of
8 the actual paid base salary of each member of the System employed by
9 the municipality;

10 6. Beginning July 1, 1995, a minimum of twelve and one-half
11 percent (12 1/2%) of the actual paid base salary of each member of
12 the System employed by the municipality; and

13 7. Beginning July 1, ~~1996~~ 2015, a minimum of thirteen percent
14 (13%) of the actual paid base salary of each member of the System
15 employed by the municipality or county pursuant to Section 2 of this
16 act.

17 The sum appropriated shall be paid to the System within ten (10)
18 days following the payroll period on which the contribution is
19 based.

20 The state shall make such appropriation as is necessary to
21 assure the retirement benefits provided by the article.

22 SECTION 4. AMENDATORY 11 O.S. 2011, Section 50-110, is
23 amended to read as follows:

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1 Section 50-110. A. Each member in the System shall contribute
2 to the System a minimum of eight percent (8%) of the member's actual
3 paid base salary.

4 At the option of the participating municipality or county
5 pursuant to the provisions of Section 2 of this act, the
6 participating municipality or county may pay all or any part of the
7 member's required contribution. The sums contributed shall be paid
8 to the System as provided in this article within ten (10) days
9 following the payroll period on which the contributions are based.
10 Amounts deducted from the salary of a member and not paid to the
11 System after thirty (30) days from each ending payroll date shall be
12 subject to a monthly late charge of one and one-half percent (1
13 1/2%) of the unpaid balance to be paid by the municipality to the
14 System. All funds received by a participating municipality or
15 county for police retirement purposes shall be forwarded to the
16 State Board for credit to the Fund.

17 B. Each municipality or county shall pick up under the
18 provisions of Section 414(h) (2) of the Internal Revenue Code of 1986
19 and pay the contribution which the member is required by law to make
20 to the System for all compensation earned after ~~December 31, 1988~~
21 July 1, 2015. Although the contributions so picked up are
22 designated as member contributions, such contributions shall be
23 treated as contributions being paid by the municipality or county in
24 lieu of contributions by the member in determining tax treatment

1 under the Internal Revenue Code of 1986 and such picked up
2 contributions shall not be includable in the gross income of the
3 member until such amounts are distributed or made available to the
4 member or the beneficiary of the member. The member, by the terms
5 of this System, shall not have any option to choose to receive the
6 contributions so picked up directly and the picked up contributions
7 must be paid by the municipality or county to the System.

8 Member contributions which are picked up shall be treated in the
9 same manner and to the same extent as member contributions made
10 prior to the date on which member contributions were picked up by
11 the municipality or county. Member contributions so picked up shall
12 be included in gross salary for purposes of determining benefits and
13 contributions under the System.

14 The municipality or county shall pay the member contributions
15 from the same source of funds used in paying salary to the member,
16 by effecting an equal cash reduction in gross salary of the member.

17 SECTION 5. This act shall become effective July 1, 2015.

18 SECTION 6. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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