

An Act

ENROLLED HOUSE
BILL NO. 2499

By: Cornwell and Steagall of
the House

and

Bergstrom of the Senate

An Act relating to public retirement systems; amending 11 O.S. 2011, Sections 50-111.1, as last amended by Section 2, Chapter 346, O.S.L. 2016, 50-111.3, as amended by Section 3, Chapter 346, O.S.L. 2019, 50-114, as amended by Section 5, Chapter 346, O.S.L. 2019 and 50-115.2, as amended by Section 4, Chapter 44, O.S.L. 2014 (11 O.S. Supp. 2020, Sections 50-111.1, 50-111.3, 50-114 and 50-115.2), which relate to the Oklahoma Police Pension and Retirement System; modifying provisions related to authorized payments; providing for payment of certain amounts to estates or trusts; providing an effective date; and declaring an emergency.

SUBJECT: Public retirement systems

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 50-111.1, as last amended by Section 2, Chapter 346, O.S.L. 2016 (11 O.S. Supp. 2020, Section 50-111.1), is amended to read as follows:

Section 50-111.1 A. 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 withdraws the member's accumulated contributions, such member shall not have any recourse against the System for any type of additional benefits including, but not limited to, disability benefits. 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 the annualized final average salary multiplied by the number of years of credited service.

If a terminated member has elected a vested benefit and subsequently returns to work as a police officer of a participating municipality, their vested benefit will be set aside and prior credited service will be reinstated.

B. 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 accrued retirement benefits on the date the deceased member would have been eligible to receive the benefit.

C. Whenever a member has terminated or hereafter terminates covered employment and has withdrawn or hereafter withdraws the member's accumulated contributions and has rejoined or hereafter rejoins the System, the member, upon proper application and approval by the Board, may pay to the System the sum of the accumulated contributions the member has withdrawn or hereafter withdraws plus ten percent (10%) annual interest from the date of withdrawal and shall receive the same benefits as if the member had never withdrawn the contributions. A lump-sum payment for repayment of any amounts received because of a member's prior termination may be repaid by trustee-to-trustee transfers of non-Roth funds from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan. Those members who at the time of termination of employment could not withdraw any of their accumulated contributions shall receive credited service for the time employed as an officer prior to any such termination upon proper application and approval by the Board. To receive credit for such service, all required contributions and interest shall be paid within ninety (90) days of Board approval of the application. The provisions of this

subsection shall not apply to any member who is receiving benefits from the System as of July 1, 1987.

D. If an active member dies and does not leave a surviving beneficiary under paragraph 13 of Section 50-101 of this title, the accumulated contributions made to the System by the member shall be paid to the member's estate or, if properly designated by the member, a trust.

SECTION 2. AMENDATORY 11 O.S. 2011, Section 50-111.3, as amended by Section 3, Chapter 346, O.S.L. 2019 (11 O.S. Supp. 2020, Section 50-111.3), is amended to read as follows:

Section 50-111.3 A. In lieu of terminating employment and accepting a service retirement pension pursuant to Section 50-114 of this title, any member of the Oklahoma Police 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 make an irrevocable election to participate in the Oklahoma Police 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 Section 50-101 et seq. of this title but for eligibility purposes only.

C. The duration of participation in the Oklahoma Police Deferred Option Plan for a member shall not exceed five (5) years. Participation in the Oklahoma Police 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 Police Deferred Option Plan, the member shall terminate employment with all participating municipalities as an officer, and shall start receiving the member's accrued monthly retirement benefit from the System. Such a member may receive in-service distributions of such member's accrued monthly retirement benefit from the System if such member is reemployed by a participating municipality only if such reemployment is as a police chief or in a position not covered under the System.

D. When a member begins participation in the Oklahoma Police Deferred Option Plan, the contribution of the employee shall cease. The employer contributions shall continue to be paid in accordance with Section 50-109 of this title. Municipal contributions for employees who elect the Oklahoma Police Deferred Option Plan shall

be credited equally to the Oklahoma Police Pension and Retirement System and to the Oklahoma Police Deferred Option Plan. 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 Oklahoma Police 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 participant in the Oklahoma Police Deferred Option Plan shall receive, at the option of the participant:

1. A lump sum payment from the account equal to the option account balance of the participant, payable to the participant;

2. A lump sum payment from the account equal to the option account balance of the participant, payable to the annuity provider which shall be selected by the participant as a result of the research and investigation of the participant; or

3. Any other method of payment if approved by the State Board.

Notwithstanding any other provision contained herein to the contrary, commencement of distributions under the Oklahoma Police Deferred Option Plan shall be no later than the time as set forth in subsection C of Section 50-114 of this title.

G. If the participant dies during the period of participation in the Oklahoma Police Deferred Option Plan, a lump sum payment equal to the account balance of the participant shall be paid to the recipients, which may include a trust, properly designated in writing by the participant or, if none, to the surviving spouse who was married to the participant for the thirty (30) continuous months immediately preceding the death of the participant; provided, a surviving spouse of a participant who died in, and as a consequence of, the performance of the participant's duty for a participating municipality shall not be subject to the thirty-month marriage

requirement for survivor benefits or, if no surviving spouse, to the estate of the participant.

H. In lieu of participating in the Oklahoma Police Deferred Option Plan pursuant to subsections A, B, C, D, E and F of this section, a member may make an irrevocable election to participate in the Oklahoma Police 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 date selected by the member, which is up to five (5) years before the member elects to participate in the Oklahoma Police Deferred Option Plan, but not before the date at which the member completes twenty (20) years of credited service,
- b. "termination date" means the date the member elects to participate in the Oklahoma Police Deferred Option Plan pursuant to this subsection, and the date the member terminates employment with all participating municipalities as an active police officer, such termination has at all times included reemployment of a member by a participating municipality only if such reemployment is as a police chief or in a position not covered under the System,
- c. "earlier attained credited service" means the credited service earned by a member as of the back drop date, and earlier attained credited service cannot be reduced to less than twenty (20) years of credited service, 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 of 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 as if the member had participated in the Oklahoma Police Deferred Option

Plan pursuant to subsections A, B, C, D and E 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 police officer and shall start receiving the 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 Police Deferred Option Plan pursuant to this subsection if the member has elected to participate in the Oklahoma Police Deferred Option Plan pursuant to subsections A, B, C, D, E and F of this section; and

3. If a member who has not less than twenty (20) years of creditable service and who is eligible to receive a service retirement pension dies prior to terminating employment, the surviving spouse shall be eligible to elect to receive a benefit determined as if the member had elected to participate in the Oklahoma Police Deferred Option Plan in accordance with this subsection on the day immediately preceding the death. The surviving spouse must have been married to the member for the thirty (30) continuous months preceding the member's death; provided, the surviving spouse of a member who died while in, and as a consequence of, the performance of the member's duty for a participating municipality shall not be subject to the thirty-month marriage requirement for this election.

SECTION 3. AMENDATORY 11 O.S. 2011, Section 50-114, as amended by Section 5, Chapter 346, O.S.L. 2019 (11 O.S. Supp. 2020, Section 50-114), is amended to read as follows:

Section 50-114. A. The State Board is hereby authorized to pay out of funds in the System a monthly service pension to any member eligible as hereinafter provided, not exceeding in any event the amount of money in such funds and not exceeding in any event the accrued retirement benefit for such member, except as provided for herein. In order for a member to be eligible for such service pension the following requirements must be complied with:

1. The member's service with the police department for any participating municipality must have ceased; however, a member may be subsequently reemployed in the position of police chief pursuant to subsection C of Section 50-112 of this title;

2. The member must have reached the member's normal retirement date; and

3. The member must have complied with any agreement as to contributions by the member and other members to any funds of the System where said agreement has been made as provided by this article; provided, that should a retired member receive disability benefits as provided in this and other sections of this article, the time the retired member is receiving said disability benefits shall count as time on active service if the retired member should be recalled by the Chief of Police from said disability retirement. It shall be necessary before said time shall be counted toward retirement that the retired member make the same contribution as the member would have otherwise made if on active service for the time the retired member was disabled.

B. Any member complying with all requirements of this article, who reaches normal retirement date, upon application, shall be retired at the accrued retirement benefit. When a member has served for the necessary number of years and is otherwise eligible, as provided in this article, if such member is discharged without cause by the participating municipality, the member shall be eligible for a pension.

C. Effective July 1, 1989, 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.

For distributions 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 on January 17, 2001, notwithstanding any provision of

the System to the contrary. For distributions 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. Effective January 1, 2009, with respect to the Oklahoma Police Deferred Option Plan, to the extent applicable, no minimum distribution is required for 2009 in accordance with Section 401(a)(9)(H) of the Internal Revenue Code of 1986, as amended.

Effective September 8, 2009, notwithstanding anything to the contrary of the System, the System, which is a governmental plan (within the meaning of Section 414(d) of the Internal Revenue Code of 1986, as amended) is treated as having complied with Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all years to which Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, applies to the System if the System complies with a reasonable and good faith interpretation of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.

D. In the event of the death of any member who has been awarded a retirement benefit or is eligible therefor as provided in this section, such member's beneficiaries shall be paid such retirement benefit. The remaining portion of the member's retirement benefit shall be distributed to the beneficiaries at least as rapidly as under the method of distribution to the member. Effective March 1, 1997, if a member to whom a retirement benefit has been awarded or who is eligible therefor dies prior to the date as of which the total amount of retirement 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 under paragraph 13 of Section 50-101 of this title, 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.

E. The State Board may review and affirm a member's request for retirement benefits prior to the member's normal retirement date provided that no retirement benefits are paid prior to the normal retirement date.

F. A member retired under the provisions of this article may apply to the State Board to have the member's retirement benefits set aside and may make application for disability benefits. Upon approval of the disability benefits, the member would become subject to all provisions of this article pertaining to disability retirement.

G. Upon the death of a retired member ~~or a beneficiary~~, the benefit payment for the month in which the retired member ~~or beneficiary~~ died, if not previously paid, shall be made to the beneficiary of the member, which shall include a successor in interest for whom an affidavit is provided to the System in accordance with Section 393 of Title 58 of the Oklahoma Statutes, ~~or to the member's or beneficiary's estate~~ if there is no surviving beneficiary under paragraph 13 of Section 50-101 of this title, to the member's estate or, if properly designated by the member, a trust. Upon the death of a beneficiary, the benefit payment for the month in which the beneficiary died, if not previously paid, shall be made to the beneficiary's estate or, if properly designated by the beneficiary, to a trust. 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 or beneficiary died.

H. If the requirements of Section 50-114.4 of this title are satisfied, a member who, by reason of attainment of normal retirement date or age, is separated from service as a public safety officer with the member's participating municipality, may elect to have payment made directly to the provider for qualified health insurance premiums by deduction from his or her monthly pension payment, after December 31, 2006, in accordance with Section 402(1) of the Internal Revenue Code of 1986, as amended.

SECTION 4. AMENDATORY 11 O.S. 2011, Section 50-115.2, as amended by Section 4, Chapter 44, O.S.L. 2014 (11 O.S. Supp. 2020, Section 50-115.2), is amended to read as follows:

Section 50-115.2 Upon the death of an active or retired member, the Oklahoma Police Pension and Retirement System shall pay to the beneficiary of the member under paragraph 13 of Section 50-101 of this title or if there is no such beneficiary or if ~~the~~ such beneficiary predeceases the member, to the member's estate or, if properly designated by the member, to a trust, the sum of Four Thousand Dollars (\$4,000.00) as a death benefit 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).

SECTION 5. This act shall become effective July 1, 2021.

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

Passed the House of Representatives the 8th day of March, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the 21st day of April, 2021.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

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January 18, 2021

Representative Avery Frix
Room 405.1

Re: RBH No. 6805

RBH No. 6805 allows the Police Pension and Retirement System to pay death benefit to a trust.

RBH No. 6805 is a nonfiscal bill as defined by OPLAAA.

I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Thomas E. Cummins

Thomas E. Cummins, MAAA