

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3755

By: Hardin

AS INTRODUCED

An Act relating to retirement; amending 11 O.S. 2021, Sections 50-111.3, 50-112, and 50-114, as amended by Section 5, Chapter 151, O.S.L. 2023 (11 O.S. Supp. 2023, Section 50-114), which relate to the Oklahoma Police Pension and Retirement System; modifying who may receive retirement benefits; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2021, 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

1 Deferred Option Plan and defer the receipts of benefits in
2 accordance with the provisions of this section.

3 B. For purposes of this section, creditable service shall
4 include service credit reciprocally recognized pursuant to Section
5 50-101 et seq. of this title but for eligibility purposes only.

6 C. The duration of participation in the Oklahoma Police
7 Deferred Option Plan for a member shall not exceed five (5) years.
8 Participation in the Oklahoma Police Deferred Option Plan must begin
9 the first day of a month and end on the last day of a month. At the
10 conclusion of a member's participation in the Oklahoma Police
11 Deferred Option Plan, the member shall terminate employment with all
12 participating municipalities as an officer, and shall start
13 receiving the member's accrued monthly retirement benefit from the
14 System. Such a member may receive in-service distributions of such
15 member's accrued monthly retirement benefit from the System if such
16 member is reemployed by a participating municipality only if such
17 reemployment is as a police chief, a deputy police chief, or in a
18 position not covered under the System.

19 D. When a member begins participation in the Oklahoma Police
20 Deferred Option Plan, the contribution of the employee shall cease.
21 The employer contributions shall continue to be paid in accordance
22 with Section 50-109 of this title. Municipal contributions for
23 employees who elect the Oklahoma Police Deferred Option Plan shall
24 be credited equally to the Oklahoma Police Pension and Retirement
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1 System and to the Oklahoma Police Deferred Option Plan. The monthly
2 retirement benefits that would have been payable had the member
3 elected to cease employment and receive a service retirement shall
4 be paid into the Oklahoma Police Deferred Option Plan account.

5 E. 1. A member who participates in this plan shall be eligible
6 to receive cost of living increases.

7 2. A member who participates in this plan shall earn interest
8 at a rate of two percentage points below the rate of return of the
9 investment portfolio of the System, but no less than the actuarial
10 assumed interest rate as certified by the actuary in the yearly
11 evaluation report of the actuary. The interest shall be credited to
12 the individual account balance of the member on an annual basis.

13 F. A participant in the Oklahoma Police Deferred Option Plan
14 shall receive, at the option of the participant:

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

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

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

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

3 G. If the participant dies during the period of participation
4 in the Oklahoma Police Deferred Option Plan, a lump sum payment
5 equal to the account balance of the participant shall be paid to the
6 recipients, which may include a trust, properly designated in
7 writing by the participant or, if none, to the surviving spouse who
8 was married to the participant for the thirty (30) continuous months
9 immediately preceding the death of the participant; provided, a
10 surviving spouse of a participant who died in, and as a consequence
11 of, the performance of the participant's duty for a participating
12 municipality shall not be subject to the thirty-month marriage
13 requirement for survivor benefits or, if no surviving spouse, to the
14 estate of the participant.

15 H. In lieu of participating in the Oklahoma Police Deferred
16 Option Plan pursuant to subsections A, B, C, D, E and F of this
17 section, a member may make an irrevocable election to participate in
18 the Oklahoma Police Deferred Option Plan pursuant to this subsection
19 as follows:

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

- 22 a. "back drop date" means the date selected by the
23 member, which is up to five (5) years before the
24 member elects to participate in the Oklahoma Police
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1 Deferred Option Plan, but not before the date at which
2 the member completes twenty (20) years of credited
3 service,

4 b. "termination date" means the date the member elects to
5 participate in the Oklahoma Police Deferred Option
6 Plan pursuant to this subsection, and the date the
7 member terminates employment with all participating
8 municipalities as an active police officer, such
9 termination has at all times included reemployment of
10 a member by a participating municipality only if such
11 reemployment is as a police chief, a deputy police
12 chief, or in a position not covered under the System,

13 c. "earlier attained credited service" means the credited
14 service earned by a member as of the back drop date,
15 and earlier attained credited service cannot be
16 reduced to less than twenty (20) years of credited
17 service, and

18 d. "deferred benefit balance" means all monthly
19 retirement benefits that would have been payable had
20 the member elected to cease employment on the back
21 drop date and receive a service retirement from the
22 back drop date to the termination date, all of the
23 member's contributions and one-half (1/2) of the
24 employer contributions from the back drop date to the
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1 termination date, with interest based on how the
2 benefit would have accumulated as if the member had
3 participated in the Oklahoma Police Deferred Option
4 Plan pursuant to subsections A, B, C, D and E of this
5 section from the back drop date to the termination
6 date;

7 2. At the termination date, the monthly pension benefit shall
8 be determined based on earlier attained credited service and on the
9 final average salary as of the back drop date. The member's
10 individual deferred option account shall be credited with an amount
11 equal to the deferred benefit balance; the member shall terminate
12 employment with all participating municipalities as a police officer
13 and shall start receiving the member's accrued monthly retirement
14 benefit from the System. The provisions of subsections B, C, E, F
15 and G of this section shall apply to this subsection. A member
16 shall not participate in the Oklahoma Police Deferred Option Plan
17 pursuant to this subsection if the member has elected to participate
18 in the Oklahoma Police Deferred Option Plan pursuant to subsections
19 A, B, C, D, E and F of this section; and

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

9 SECTION 2. AMENDATORY 11 O.S. 2021, Section 50-112, is
10 amended to read as follows:

11 Section 50-112. A. All persons employed as full-time duly
12 appointed or elected officers who are paid for working more than
13 twenty-five (25) hours per week or any person hired by a
14 participating municipality who is undergoing police training to
15 become a permanent police officer of the municipality shall
16 participate in the System upon initial employment with a police
17 department of a participating municipality. All such persons shall
18 submit to a physical-medical examination pertaining to sight,
19 hearing, agility and other conditions the requirements of which
20 shall be established by the State Board. The person shall be
21 required to complete this physical-medical examination prior to the
22 beginning of actual employment. This examination shall identify any
23 preexisting conditions. Except as otherwise provided in this
24 section, a police officer shall be not less than twenty-one (21) nor
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1 more than forty-five (45) years of age when accepted for membership
2 in the System. However, if a municipality should be found to be in
3 noncompliance with the provisions of Article 50 of this title, as
4 determined by the State Board, then any current full-time active
5 police officer employed by a municipality as of July 1, 2001, shall
6 not be denied eligibility to participate in the Oklahoma Police
7 Pension and Retirement System solely due to age. The State Board
8 shall have authority to deny or revoke membership of any person
9 submitting false information in such person's membership
10 application. The State Board shall have final authority in
11 determining eligibility for membership in the System, pursuant to
12 the provisions of this article.

13 B. The police chief or deputy police chief of any participating
14 municipality may be exempt from membership in the System or may
15 become a member provided the member is not a retired member and the
16 requirements of this section are met at the time of employment.

17 C. A member of the System who has attained his or her normal
18 retirement date may, if the member so elects, agree to terminate
19 employment and retire as a member of the System and make an election
20 to receive distributions from the System. If a retired member is
21 reemployed by a participating municipality in the position of police
22 chief, deputy police chief, or in a position which is not covered by
23 the System, retirement shall include receipt by such retired member
24 of in-service distributions from the System.

1 D. A former member of the System who terminates from covered
2 employment and who has neither retired from the System nor entered
3 the Oklahoma Police Deferred Option Plan and is later employed in a
4 covered position with a participating municipality shall not be
5 denied eligibility to become a member of the System because he or
6 she is forty-five (45) years of age or older. If such member has
7 withdrawn his or her contributions prior to re-entering the System
8 and the member desires to receive credit for such prior service,
9 then the member shall pay back such contributions and interest
10 pursuant to Section 50-111.1 of this title.

11 E. Notwithstanding any other provision of law to the contrary,
12 a municipality that employs two (2) or fewer full-time police
13 officers may employ a police officer who is more than forty-five
14 (45) years of age and who has never participated in the Oklahoma
15 Police Pension and Retirement System, but such police officer shall
16 not be eligible to participate in the System. Such police officer
17 shall be counted in the limitation imposed by this subsection.
18 Notwithstanding any other provisions of law, the State Board shall
19 be granted access to information concerning a list of actively
20 working police officers within the municipalities and agencies under
21 the purview provided by the Council on Law Enforcement Education and
22 Training.

1 SECTION 3. AMENDATORY 11 O.S. 2021, Section 50-114, as
2 amended by Section 5, Chapter 151, O.S.L. 2023 (11 O.S. Supp. 2023,
3 Section 50-114), is amended to read as follows:

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

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

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

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

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

13 C. Effective July 1, 1989, in no event shall commencement of
14 distribution of the accrued retirement benefit of a member be
15 delayed beyond April 1 of the calendar year following the later of:

16 1. The calendar year in which the member reaches seventy and
17 one-half (70 1/2) years of age for a member who attains age seventy
18 and one-half (70 1/2) before January 1, 2020, or effective for
19 distributions required to be made after December 31, 2019, but
20 before January 1, 2023, the calendar year in which the member
21 reaches seventy-two (72) years of age for an individual who attains
22 age seventy and one-half (70 1/2) after December 31, 2019, or
23 effective for distributions required to be made after December 31,
24 2022, the calendar year in which the member reaches seventy-three
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1 (73) years of age for an individual who attains age seventy-two (72)
2 after December 31, 2022, or "the applicable age" as defined in
3 Section 401(a)(9)(C)(v) of the Internal Revenue Code of 1986, as
4 amended, if later; or

5 2. The actual retirement date of the member.

6 For distributions made for calendar years beginning on or after
7 January 1, 2001, through December 31, 2004, the System shall apply
8 the minimum distribution requirements and incidental benefit
9 requirements of Section 401(a)(9) of the Internal Revenue Code of
10 1986, as amended, in accordance with the regulations under Section
11 401(a)(9) of the Internal Revenue Code of 1986, as amended, which
12 were proposed on January 17, 2001, notwithstanding any provision of
13 the System to the contrary. For distributions made for calendar
14 years beginning on or after January 1, 2005, the System shall apply
15 the minimum distribution incidental benefit requirements, incidental
16 benefit requirements, and minimum distribution requirements of
17 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
18 in accordance with the final regulations under Section 401(a)(9) of
19 the Internal Revenue Code of 1986, as amended, including Treasury
20 Regulations Sections 1.401(a)(9)-1 through 1.401(a)(9)-9; provided,
21 however, that for distributions required to be made after December
22 31, 2019, for individuals who attain seventy and one-half (70 1/2)
23 years of age after December 31, 2019, but before January 1, 2023,
24 such distributions shall take into account that age 70 1/2 was
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1 stricken and age 72 was inserted in Section 401(a)(9)(B)(iv)(I),
2 Section 401(a)(9)(C)(i)(I) and Section 401(a)(9)(C)(ii)(I) of the
3 Internal Revenue Code of 1986, as amended, and, provided further,
4 that for individuals who attain seventy-two (72) years of age after
5 December 31, 2022, such distributions shall take into account that
6 "age 72" was stricken and "the applicable age", as defined in
7 Section 401(a)(9)(C)(v) of the Internal Revenue Code of 1986, as
8 amended, was inserted in Section 401(a)(9)(B)(iv)(I), Section
9 401(a)(9)(C)(i)(I) and Section 401(a)(9)(C)(ii)(I) of the Internal
10 Revenue Code of 1986, as amended, in all cases notwithstanding any
11 provision of the System to the contrary. Effective January 1, 2009,
12 with respect to the Oklahoma Police Deferred Option Plan, to the
13 extent applicable, no minimum distribution is required for 2009 in
14 accordance with Section 401(a)(9)(H) of the Internal Revenue Code of
15 1986, as amended.

16 Effective September 8, 2009, notwithstanding anything to the
17 contrary of the System, the System, which is a governmental plan
18 (within the meaning of Section 414(d) of the Internal Revenue Code
19 of 1986, as amended) is treated as having complied with Section
20 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all
21 years to which Section 401(a)(9) of the Internal Revenue Code of
22 1986, as amended, applies to the System if the System complies with
23 a reasonable and good-faith interpretation of Section 401(a)(9) of
24 the Internal Revenue Code of 1986, as amended.

1 D. In the event of the death of any member who has been awarded
2 a retirement benefit or is eligible therefor as provided in this
3 section, such member's beneficiaries shall be paid such retirement
4 benefit. The remaining portion of the member's retirement benefit
5 shall be distributed to the beneficiaries at least as rapidly as
6 under the method of distribution to the member. Effective March 1,
7 1997, if a member to whom a retirement benefit has been awarded or
8 who is eligible therefor dies prior to the date as of which the
9 total amount of retirement benefit paid equals the total amount of
10 the employee contributions paid by or on behalf of the member and
11 the member does not have a surviving beneficiary under paragraph 13
12 of Section 50-101 of this title, the total benefits paid as of the
13 date of the member's death shall be subtracted from the accumulated
14 employee contribution amount and the balance, if greater than zero
15 (0), shall be paid to the member's estate.

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

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

3 G. Upon the death of a retired member, the benefit payment for
4 the month in which the retired member died, if not previously paid,
5 shall be made to the beneficiary of the member, which shall include
6 a successor in interest for whom an affidavit is provided to the
7 System in accordance with Section 393 of Title 58 of the Oklahoma
8 Statutes, or if there is no surviving beneficiary under paragraph 13
9 of Section 50-101 of this title, to the member's estate or, if
10 properly designated by the member, a trust. Upon the death of a
11 beneficiary, the benefit payment for the month in which the
12 beneficiary died, if not previously paid, shall be made to the
13 beneficiary's estate or, if properly designated by the beneficiary,
14 to a trust. Such benefit payment shall be made in an amount equal
15 to a full monthly benefit payment regardless of the day of the month
16 in which the retired member or beneficiary died.

17 H. If the requirements of Section 50-114.4 of this title are
18 satisfied, a member who, by reason of attainment of normal
19 retirement date or age, is separated from service as a public safety
20 officer with the member's participating municipality, may elect to
21 have payment made directly to the provider for qualified health
22 insurance premiums by deduction from his or her monthly pension
23 payment, after December 31, 2006, in accordance with Section 402(1)
24 of the Internal Revenue Code of 1986, as amended. For distributions
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1 made after December 29, 2022, the election provided for under
2 Section 402(1) of the Internal Revenue Code of 1986, as amended, may
3 be made whether payment of the premiums is made directly to the
4 provider of the accident or health plan or qualified long-term care
5 insurance contract by deduction from a distribution from the System
6 or is made to the member.

7 SECTION 4. It being immediately necessary for the preservation
8 of the public peace, health or safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

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12 59-2-9845 CMA 01/16/24
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January 17, 2024

Representative Hardin
Room 250.1

Re: RBH No. 9845

RBH No. 9845 would allow a retired participant of the Oklahoma Police Pension and Retirement System who is participating in DROP to be employed as deputy chief of a participating municipality and continue to receive his/her service benefits.

RBH No. 9845 is a non fiscal 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