

An Act

ENROLLED HOUSE
BILL NO. 3858

By: Ford of the House

and

Paxton of the Senate

An Act relating to retirement; amending 11 O.S. 2021, Sections 50-110, as amended by Section 2, Chapter 53, O.S.L. 2023, and 50-114, as last amended by Section 5, Chapter 151, O.S.L. 2023 (11 O.S. Supp. 2023, Sections 50-110 and 50-114), which relate to the Police Pension and Retirement System; modifying late charge amount; updating reference; directing that revisions be taken into account; and declaring an emergency.

SUBJECT: Retirement

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

SECTION 1. AMENDATORY 11 O.S. 2021, Section 50-110, as amended by Section 2, Chapter 53, O.S.L. 2023 (11 O.S. Supp. 2023, Section 50-110), is amended to read as follows:

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

At the option of the participating municipality, the participating municipality may pay all or any part of the member's required contribution. The sums contributed shall be paid online to the System as provided in this article within ten (10) days following the payroll period on which the contributions are based.

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%)~~ five percent (5%) of the unpaid balance to be paid by the municipality to the System. All funds received by a participating municipality for police retirement purposes shall be forwarded to the State Board for credit to the Fund.

B. 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 gross salary for purposes of determining benefits and contributions under 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.

SECTION 2. AMENDATORY 11 O.S. 2021, Section 50-114, as last amended by Section 5, Chapter 151, O.S.L. 2023 (11 O.S. Supp. 2023, 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 disability benefits shall count as time on active service if the retired member should be recalled by the Chief of Police from disability retirement. It shall be necessary before such 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 for a member who attains age seventy and one-half (70 1/2) before January 1, 2020, or effective for distributions required to be made after December 31, 2019, but before January 1, 2023, the calendar year in which the member reaches seventy-two (72) years of age for an individual who attains age seventy and one-half (70 1/2) after December 31, 2019, or effective for distributions required to be made after December 31, 2022, the calendar year in which the member reaches seventy-three

(73) years of age for an individual who attains age seventy-two (72) after December 31, 2022, or "the applicable age" as defined in Section 401(a)(9)(C)(v) of the Internal Revenue Code of 1986, as amended, if later; 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, including Treasury Regulations Sections 1.401(a)(9)-1 through 1.401(a)(9)-9; provided, however, that for distributions required to be made after December 31, 2019, for individuals who attain seventy and one-half (70 1/2) years of age after December 31, 2019, but before January 1, 2023, such distributions shall take into account that age 70 1/2 was stricken and age 72 was inserted in Section 401(a)(9)(B)(iv)(I), Section 401(a)(9)(C)(i)(I) and Section 401(a)(9)(C)(ii)(I) of the Internal Revenue Code of 1986, as amended, and, provided further, that for individuals who attain seventy-two (72) years of age after December 31, 2022, such distributions shall take into account that "age 72" was stricken and "the applicable age", as defined in Section 401(a)(9)(C)(v) of the Internal Revenue Code of 1986, as amended, was inserted in Section 401(a)(9)(B)(iv)(I) of the Internal Revenue Code of 1986, as amended (applicable to calendar year 2023), Section 401(a)(9)(C)(i)(I) and Section 401(a)(9)(C)(ii)(I) of the Internal Revenue Code of 1986, as amended, and that further revision of Section 401(a)(9)(B)(iv) of the Internal Revenue Code of 1986, as amended, effective for calendar years after 2023 with respect to certain distributions shall be taken into account in all cases 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, 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, 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 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. For distributions made after December 29, 2022, the election provided for under Section 402(1) of the Internal Revenue Code of 1986, as amended, may be made whether payment of the premiums is made directly to the provider of the accident or health plan or qualified long-term care insurance contract by deduction from a distribution from the System or is made to the member.

SECTION 3. 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 12th day of March, 2024.

Presiding Officer of the House
of Representatives

Passed the Senate the 17th day of April, 2024.

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: _____

THOMAS E. CUMMINS CONSULTING ACTUARY, INC.

2512 E. 71st Street , Suite D • Tulsa, Oklahoma 74136
(918) 492-9658 • (918) 492- 9659

January 11, 2024

Representative Ford
Room 300.2

Re: RBH No. 9679

RBH No. 9679 provides for a late fee of 5% per month of monies due the Oklahoma Police Pension and Retirement System to be paid by the municipality.

RBH No. 9679 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