

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 102

By: Garvin

AS INTRODUCED

An Act relating to the Oklahoma Police Pension and Retirement System; amending 11 O.S. 2021, Sections 50-101, as amended by Section 2, Chapter 306, O.S.L. 2022 (11 O.S. Supp. 2022, Section 50-101), 50-110, and 50-111.1, which relate to definitions, employee contributions, and termination of employment; modifying definition; increasing minimum employee contribution for certain members of System; increasing computation of certain monthly benefits; and updating statutory language.

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

SECTION 1. AMENDATORY 11 O.S. 2021, Section 50-101, as amended by Section 2, Chapter 306, O.S.L. 2022 (11 O.S. Supp. 2022, 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;

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

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

5           5. "Officer" means any duly appointed and sworn full-time  
6 officer of the regular police department of a municipality whose  
7 duties are to preserve the public peace, protect life and property,  
8 prevent crime, serve warrants, enforce all laws and municipal  
9 ordinances of this state, and any political subdivision thereof, and  
10 who is authorized to bear arms in the execution of such duties;

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

1 and the Alcoholic Beverage Laws Enforcement Commission who elect to  
2 participate in the System pursuant to Section 50-111.5 of this  
3 title;

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

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

22 9. "Participating municipality" means a municipality which is  
23 making contributions to the System on behalf of its officers. The  
24 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the

1 Oklahoma State Bureau of Investigation, and the Alcoholic Beverage  
2 Laws Enforcement Commission shall be treated in the same manner as a  
3 participating municipality only regarding those members who elect to  
4 participate in the System pursuant to Section 50-111.5 of this  
5 title;

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

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

22 12. "Permanent in-line disability" means when a police officer  
23 serving in any capacity at a regular police department of a  
24 participating municipality becomes so physically or mentally

1 disabled, as determined by an independent medical examiner,  
2 psychiatrist, or psychologist selected by the State Board, while in,  
3 and in consequence of, the performance of authorizing activities  
4 while on duty as an officer that he or she is unable to perform the  
5 required duties of a police officer;

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

1 requirement. This definition of beneficiary shall be in addition to  
2 any other requirement set forth in this article;

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

5 15. "Eligible employer" means any municipality with a municipal  
6 police department;

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

10 17. "Final average salary" means the average paid base salary  
11 of the member for normally scheduled hours over the highest salaried  
12 thirty (30) consecutive months of the last sixty (60) months of  
13 credited service. Effective July 1, 2016, the following shall apply  
14 in computing final average salary:

15 a. only paid base salary on which required contributions  
16 have been made shall be used in computing a member's  
17 final average salary,

18 b. for purposes of determining the normal disability  
19 benefit only, final average salary shall be based on  
20 the member's total service if less than thirty (30)  
21 months,

22 c. in addition to other applicable limitations, and  
23 notwithstanding any other provision to the contrary,  
24 for plan years beginning on or after July 1, 2002, the

1 annual compensation of each "Noneligible Member" taken  
2 into account under the System shall not exceed the  
3 Economic Growth and Tax Relief Reconciliation Act of  
4 2001 (EGTRRA) annual compensation limit. The EGTRRA  
5 annual compensation limit is Two Hundred Thousand  
6 Dollars (\$200,000.00), as adjusted by the Commissioner  
7 for increases in the cost of living in accordance with  
8 Section 401(a)(17)(B) of the Internal Revenue Code of  
9 1986, as amended. The annual compensation limit in  
10 effect for a calendar year applies to any period, not  
11 exceeding twelve (12) months, over which compensation  
12 is determined ("determination period") beginning in  
13 such calendar year. If a determination period  
14 consists of fewer than twelve (12) months, the EGTRRA  
15 annual compensation limit will be multiplied by a  
16 fraction, the numerator of which is the number of  
17 months in the determination period, and the  
18 denominator of which is twelve (12). For purposes of  
19 this section, a "Noneligible Member" is any member who  
20 first became a member during a plan year commencing on  
21 or after July 1, 1996,

- 22 d. for plan years beginning on or after July 1, 2002, any  
23 reference in the System to the annual compensation  
24 limit under Section 401(a)(17) of the Internal Revenue

1 Code of 1986, as amended, shall mean the EGTRRA annual  
2 compensation limit set forth in this provision, and  
3 e. effective January 1, 2008, back pay, within the  
4 meaning of Section 1.415(c)-2(g)(8) of the Income Tax  
5 Regulations, shall be treated as paid base salary for  
6 the limitation year to which the back pay relates to  
7 the extent the back pay represents wages and  
8 compensation that would otherwise be included in this  
9 definition;

10 18. "Accrued retirement benefit" means, for benefits computed  
11 prior to the effective date of this act, two and one-half percent (2  
12 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 For a member who retires on or after the effective date of this act,  
15 "accrued retirement benefit" shall mean three percent (3%) of the  
16 member's final average salary multiplied by the member's years of  
17 credited service not to exceed thirty (30) years;

18 19. "Normal disability benefit" means:

19 a. for benefits computed prior to the effective date of  
20 this act, the greater of:

21 ~~a.~~ (1) two and one-half percent (2 1/2%) of the  
22 member's final average salary multiplied by  
23 twenty (20) years, notwithstanding the years of  
24 actual credited service, or



1           ~~b.~~ (2) two and one-half percent (2 1/2%) of the  
2                           member's final average salary multiplied by the  
3                           years of credited service of the member, not to  
4                           exceed thirty (30) years, if the officer has more  
5                           than twenty (20) years of credited service,

6           b. for benefits computed on or after the effective date  
7                           of this act, the greater of:

8                           (1) three percent (3%) of the member's final average  
9                           salary multiplied by twenty (20) years,  
10                           notwithstanding the years of actual credited  
11                           service, or

12                           (2) three percent (3%) of the member's final average  
13                           salary multiplied by the years of credited  
14                           service of the member, not to exceed thirty (30)  
15                           years, if the officer has more than twenty (20)  
16                           years of credited service;

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 July 1, 2016, any  
21 compensation described in subparagraph a of this paragraph that is  
22 not described in subparagraph b of this paragraph.

23           a. Paid base salary shall include only:

1 (1) normal compensation paid on a regularly scheduled  
2 pay period including, but not limited to, regular  
3 pay for holidays, paid time off, vacation or  
4 annual leave, sick leave or compensatory time in  
5 lieu of overtime, any lump sum payment paid in  
6 lieu of a normal wage increase, provided such  
7 lump sum payment is retroactively applied over  
8 the prior twelve-month period ending with the  
9 payment date, compensation for bomb squad pay,  
10 education pay, incentive pay, K-9 pay,  
11 negotiation pay, shift differential, sniper pay,  
12 SWAT team pay, emergency response team pay, any  
13 other special unit pay, and any incremental  
14 increase in compensation which is not included by  
15 the employer in a member's regular base pay for  
16 salary increase purposes but is paid by the  
17 employer to the member for group health benefits  
18 based on an arrangement with a participating  
19 municipality that was in place on December 31,  
20 2015, so long as the arrangement continues  
21 uninterrupted for a member employed by a  
22 participating municipality on June 30, 2016, who  
23 has not since terminated employment and been  
24 rehired by such participating municipality,

- 1 (2) any amount of elective salary reduction under  
2 Section 125 of the Internal Revenue Code of 1986,  
3 as amended, that would have been treated as paid  
4 base salary but for the salary deferral reduction  
5 agreement,
- 6 (3) any amount of elective salary reduction not  
7 includable in the gross income of the member  
8 under Section 132(f)(4) of the Internal Revenue  
9 Code of 1986, as amended, that would have been  
10 treated as paid base salary but for the salary  
11 deferral reduction agreement,
- 12 (4) any amount of elective salary reduction under  
13 Section 457 of the Internal Revenue Code of 1986,  
14 as amended, that would have been treated as paid  
15 base salary but for the salary deferral reduction  
16 agreement,
- 17 (5) any amount of elective salary reduction under  
18 Section 401(k) of the Internal Revenue Code of  
19 1986, as amended, that would have been treated as  
20 paid base salary but for the salary deferral  
21 reduction agreement,
- 22 (6) any amount of nonelective salary reduction under  
23 Section 414(h) of the Internal Revenue Code of  
24 1986, as amended,

- 1 (7) educational allowances paid to obtain training  
2 certification or pursue an advanced degree,  
3 (8) longevity payments made to members based upon a  
4 standardized plan which recognizes length of  
5 service to the participating municipality,  
6 (9) paid base salary shall also include base salary,  
7 as described in divisions (1) through (8) of this  
8 subparagraph, for services, but paid by the later  
9 of two and one-half (2 1/2) months after a  
10 member's severance from employment or the end of  
11 the calendar year that includes the date the  
12 member terminated employment, if it is a payment  
13 that, absent a severance from employment, would  
14 have been paid to the member while the member  
15 continued in employment with the participating  
16 municipality,  
17 (10) any payments not described in divisions (1)  
18 through (9) of this subparagraph shall not be  
19 considered paid base salary if paid after  
20 severance from employment, even if they are paid  
21 by the later of two and one-half (2 1/2) months  
22 after the date of severance from employment or  
23 the end of the calendar year that includes the  
24 date of severance from employment, except

1 payments to an individual who does not currently  
2 perform services for the participating  
3 municipality by reason of qualified military  
4 service within the meaning of Section 414(u) (5)  
5 of the Internal Revenue Code of 1986, as amended,  
6 to the extent these payments do not exceed the  
7 amounts the individual would have received if the  
8 individual had continued to perform services for  
9 the participating municipality rather than  
10 entering qualified military service,

11 (11) back pay, within the meaning of Section 1.415(c)-  
12 2(g) (8) of the Income Tax Regulations, shall be  
13 treated as paid base salary for the limitation  
14 year to which the back pay relates to the extent  
15 the back pay represents wages and compensation  
16 that would otherwise be included in this  
17 definition, and

18 (12) paid base salary shall also include differential  
19 wage payments under Section 414(u) (12) of the  
20 Internal Revenue Code of 1986, as amended.

21 b. Notwithstanding anything to the contrary in this  
22 section, paid base salary shall not include any:

23 (1) fringe benefits, reimbursements, or increases in  
24 compensation due to reimbursements to the extent  
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1 not specifically included above in subparagraph a  
2 of this paragraph,

3 (2) incremental increase in compensation which is not  
4 included by the employer in a member's regular  
5 base pay for salary increase purposes but is paid  
6 by the employer to the member for group health  
7 benefits not otherwise included above in division  
8 (1) of subparagraph a of this paragraph,

9 (3) insurance benefits, including any reimbursements  
10 thereof, or insurance proceeds of any type not  
11 otherwise included above in division (1) of  
12 subparagraph a of this paragraph,

13 (4) bonuses, including signing bonuses, lump-sum  
14 payments or stipends made to the member not  
15 otherwise included above in division (1) of  
16 subparagraph a of this paragraph,

17 (5) overtime compensation,

18 (6) payments whether prior to or upon termination of  
19 employment for accumulated unused vacation or  
20 unused annual leave, accumulated unused sick  
21 leave, or accumulated unused paid time off or  
22 other unused leave,

23 (7) payments made in error to a member,  
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1 (8) payments made by the participating municipality  
2 for services rendered by the member, which  
3 services are not part of the member's job duties  
4 and responsibilities of his or her job position  
5 with the participating municipality,

6 (9) severance pay,

7 (10) unemployment payments, and

8 (11) uniform and equipment allowances; and

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

15 SECTION 2. AMENDATORY 11 O.S. 2021, Section 50-110, is  
16 amended to read as follows:

17 Section 50-110. A. Each member in the Oklahoma Police Pension  
18 and Retirement System prior to the effective date of this act shall  
19 contribute to the System a minimum of eight percent (8%) of the  
20 member's actual paid base salary. On or after the effective date of  
21 this act, each member shall contribute to the System a minimum of  
22 nine percent (9%).

23 At the option of the participating municipality, the  
24 participating municipality may pay all or any part of the member's

1 required contribution. The sums contributed shall be paid to the  
2 System as provided in this article within ten (10) days following  
3 the payroll period on which the contributions are based. Amounts  
4 deducted from the salary of a member and not paid to the System  
5 after thirty (30) days from each ending payroll date shall be  
6 subject to a monthly late charge of one and one-half percent (1  
7 1/2%) of the unpaid balance to be paid by the municipality to the  
8 System. All funds received by a participating municipality for  
9 police retirement purposes shall be forwarded to the State Board for  
10 credit to the Fund.

11 B. Each municipality shall pick up under the provisions of  
12 Section 414(h)(2) of the Internal Revenue Code of 1986 and pay the  
13 contribution which the member is required by law to make to the  
14 System for all compensation earned after December 31, 1988.

15 Although the contributions so picked up are designated as member  
16 contributions, such contributions shall be treated as contributions  
17 being paid by the municipality in lieu of contributions by the  
18 member in determining tax treatment under the Internal Revenue Code  
19 of 1986 and such picked up contributions shall not be includable in  
20 the gross income of the member until such amounts are distributed or  
21 made available to the member or the beneficiary of the member. The  
22 member, by the terms of this System, shall not have any option to  
23 choose to receive the contributions so picked up directly and the  
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1 picked up contributions must be paid by the municipality to the  
2 System.

3 Member contributions which are picked up shall be treated in the  
4 same manner and to the same extent as member contributions made  
5 prior to the date on which member contributions were picked up by  
6 the municipality. Member contributions so picked up shall be  
7 included in gross salary for purposes of determining benefits and  
8 contributions under the System.

9 The municipality shall pay the member contributions from the  
10 same source of funds used in paying salary to the member, by  
11 effecting an equal cash reduction in gross salary of the member.

12 SECTION 3. AMENDATORY 11 O.S. 2021, Section 50-111.1, is  
13 amended to read as follows:

14 Section 50-111.1. A. A member who terminates service before  
15 normal retirement date, other than by death or disability shall,  
16 upon application filed with the State Board, be refunded from the  
17 Fund an amount equal to the accumulated contributions the member has  
18 made to the Fund, but excluding any interest or any amount  
19 contributed by the municipality or state. If a member withdraws the  
20 member's accumulated contributions, such member shall not have any  
21 recourse against the System for any type of additional benefits  
22 including, but not limited to, disability benefits. If a member has  
23 completed ten (10) years of credited service at the date of  
24

1 termination, the member may elect a vested benefit in lieu of  
2 receiving the member's accumulated contributions.

3 If the member who has completed ten (10) or more years of  
4 credited service elects the vested benefit, the member shall be  
5 entitled to a monthly retirement annuity commencing on the date the  
6 member reaches fifty (50) years of age or the date the member would  
7 have had twenty (20) years of credited service had the member's  
8 employment continued uninterrupted, whichever is later. The annual  
9 amount of such retirement annuity shall be equal to two and one-half  
10 percent (2 1/2%) of the annualized final average salary multiplied  
11 by the number of years of credited service. For a monthly  
12 retirement annuity commencing on or after the effective date of this  
13 act, the annual amount of such retirement annuity shall be equal to  
14 three percent (3%) of the annualized final average salary multiplied  
15 by the number of years of credited service.

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

20 B. If a member who terminates employment and elects a vested  
21 benefit dies prior to being eligible to receive benefits, the  
22 member's beneficiary shall be entitled to the member's normal  
23 monthly accrued retirement benefits on the date the deceased member  
24 would have been eligible to receive the benefit.

1 C. Whenever a member has terminated or hereafter terminates  
2 covered employment and has withdrawn or hereafter withdraws the  
3 member's accumulated contributions and has rejoined or hereafter  
4 rejoins the System, the member, upon proper application and approval  
5 by the Board, may pay to the System the sum of the accumulated  
6 contributions the member has withdrawn or hereafter withdraws plus  
7 ten percent (10%) annual interest from the date of withdrawal and  
8 shall receive the same benefits as if the member had never withdrawn  
9 the contributions. A lump-sum payment for repayment of any amounts  
10 received because of a member's prior termination may be repaid by  
11 trustee-to-trustee transfers of non-Roth funds from a Section 403(b)  
12 annuity, an eligible Section 457(b) plan, and/or a Section 401(a)  
13 qualified plan. Those members who at the time of termination of  
14 employment could not withdraw any of their accumulated contributions  
15 shall receive credited service for the time employed as an officer  
16 prior to any such termination upon proper application and approval  
17 by the Board. To receive credit for such service, all required  
18 contributions and interest shall be paid within ninety (90) days of  
19 Board approval of the application. The provisions of this  
20 subsection shall not apply to any member who is receiving benefits  
21 from the System as of July 1, 1987.

22 D. If an active member dies and does not leave a surviving  
23 beneficiary under paragraph 13 of Section 50-101 of this title, the  
24 accumulated contributions made to the System by the member shall be

1 paid to the member's estate or, if properly designated by the  
2 member, a trust.

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