

ENROLLED SENATE
BILL NO. 669

By: Wilkerson of the Senate

and

Plunk of the House

An Act relating to retirement; amending 11 O.S. 1991, Section 50-101, as last amended by Section 3 of Enrolled House Bill No. 1965 of the 1st Session of the 48th Oklahoma Legislature and Section 2, Chapter 307, O.S.L. 2000 (11 O.S. Supp. 2000, Section 50-111.5), which relate to the Oklahoma Police Pension and Retirement System; allowing participation by certain commissioned officers of the Oklahoma State Bureau of Investigation and Alcoholic Beverage Laws Enforcement Commission; providing election to participate upon accepting position; providing condition; requiring notification; providing for contributions to the System; clarifying language; 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. 1991, Section 50-101, as last amended by Section 3 of Enrolled House Bill No. 1965 of the 1st Session of the 48th Oklahoma Legislature, 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;
4. "Local board" means the local police pension and retirement boards;
5. "Fund" means the Oklahoma Police Pension and Retirement Fund;
6. "Officer" means any duly appointed and sworn full-time officer of the regular police department of a municipality whose duties are to preserve the public peace, protect life and property,

prevent crime, serve warrants, enforce all laws and municipal ordinances of this state, and any political subdivision thereof, and who is authorized to bear arms in the execution of such duties;

7. "Member" means all eligible officers of a participating municipality and any person hired by a participating municipality who is undergoing police training to become a permanent police officer of the municipality. Effective July 1, 1987, a member does not include a "leased employee" as defined under Section 414(n)(2) of the Internal Revenue Code of 1986, as amended. Effective July 1, 1999, any individual who agrees with the participating municipality that the individual's services are to be performed as a leased employee or an independent contractor shall not be a member regardless of any classification as a common law employee by the Internal Revenue Service or any other governmental agency, or any court of competent jurisdiction. A member shall include ~~members~~ eligible commissioned officers of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, and the Alcoholic Beverage Laws Enforcement Commission who elect to participate in the System pursuant to Section 50-111.5 of Title 11 of the Oklahoma Statutes;

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

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

10. "Participating municipality" means a municipality which is making contributions to the System on behalf of its officers. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, and the Alcoholic Beverage Laws Enforcement Commission shall be treated in the same manner as a participating municipality only regarding those members who elect to participate in the System pursuant to Section 50-111.5 of Title 11 of the Oklahoma Statutes;

11. "Permanent total disability" means incapacity due to accidental injury or occupational disease, to earn any wages in the employment for which the member is physically suited and reasonably fitted through education, training or experience. Further, the member must be declared one hundred percent (100%) impaired as defined by the "American Medical Association's Guides to the

Evaluation of Permanent Impairment" on the basis of a physical medical examination by a physician licensed to practice medicine in this state, as selected by the State Board;

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

13. "Beneficiary" means a member's surviving spouse or any surviving children, including biological and adopted children, at the time of the member's death. The surviving spouse must have been married to the member for the thirty (30) continuous months immediately preceding the member's death, provided a 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 survivor benefits. A surviving child of a member shall be a beneficiary until reaching eighteen (18) years of age or twenty-two (22) years of age if the child is enrolled full time and regularly attending a public or private school or any institution of higher education. Any child adopted by a member after the member's retirement shall be a beneficiary only if the child is adopted by the member for the thirty (30) continuous months preceding the member's death. Any child who is adopted by a member after the member's retirement and such member dies accidentally or as a consequence of the performance of the member's duty as a police officer shall not be subject to the thirty-month adoption requirement. This definition of beneficiary shall be in addition to any other requirement set forth in this article;

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

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

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

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

- a. Gross salary shall not include payment for accumulated sick and annual leave upon termination of employment or any uniform allowances. Provided, for purposes of determining the normal disability benefit, final average salary shall be based on the member's total service if less than thirty (30) months. Gross salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of

1986, as amended, and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986, as amended. Effective January 1, 1988, gross salary shall include any amount of elective salary reduction under Section 125 of the Internal Revenue Code of 1986, as amended. Only salary on which required contributions have been made may be used in computing the final average salary.

- b. In addition to other applicable limitations, and notwithstanding any other provision to the contrary, for plan years beginning on or after July 1, 1996, the annual compensation of each "Noneligible Member" taken into account under the System shall not exceed the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) annual compensation limit. The OBRA '93 annual compensation limit is One Hundred Fifty Thousand Dollars (\$150,000.00), as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The annual compensation limit in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which compensation is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the OBRA '93 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12). For purposes of this section, a "Noneligible Member" is any member who first became a member during a plan year commencing on or after July 1, 1996.
- c. For plan years beginning on or after July 1, 1996, any reference in the System to the annual compensation limit under Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall mean the OBRA '93 annual compensation limit set forth in this provision.
- d. If compensation for any prior determination period is taken into account in determining a Noneligible Member's benefits accruing in the current plan year, the compensation for that prior determination period is subject to the OBRA '93 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after July 1, 1996, the OBRA '93 annual compensation limit is One Hundred Fifty Thousand Dollars (\$150,000.00).
- e. Effective July 1, 1989, through June 30, 1997, in determining the compensation of a member for purposes of this limitation, the rules of Section 414(q)(6) of the Internal Revenue Code of 1986, as amended, shall apply, except in applying such rules, the term

"family" shall include only the spouse of the member and any lineal descendants of the member who have not attained age nineteen (19) before the close of the year. If, as a result of the application of such rules, the adjusted annual compensation limitation is exceeded, then the limitation shall be prorated among the affected individuals in proportion to each such individual's compensation as determined under this section prior to the application of this limitation;

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

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

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

21. "Paid base salary" means compensation that shall include longevity, educational allowances, and normal compensation paid on a regularly scheduled pay period of which said pay period shall include holidays, annual leave and sick leave. Paid base salary shall not include overtime. This shall exclude any incremental increases due to reimbursement or payment of benefits or other allowances including but not limited to insurance premium reimbursements.

SECTION 2. AMENDATORY Section 2, Chapter 307, O.S.L. 2000 (11 O.S. Supp. 2000, Section 50-111.5), is amended to read as follows:

Section 50-111.5 A. Any individual who was a member with a vested benefit with the Oklahoma Police Pension and Retirement System on or after July 1, 1987, and who becomes appointed to a position in the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, or the Alcoholic Beverage Laws Enforcement Commission may, at the time the individual accepts such position, elect in writing to remain a member of the Oklahoma Police Pension and Retirement System as long as the individual has not begun receiving benefits from the Oklahoma Police Pension and Retirement System or the Oklahoma Law Enforcement Retirement System. The agency shall send a copy of the written election to the Oklahoma Police Pension and Retirement System and the Oklahoma Law Enforcement Retirement System within five (5) business days from its signing. If such eligible individual does not elect to remain in the Oklahoma Police Pension and Retirement System pursuant to this subsection, then the individual may elect to transfer at a later date pursuant to subsection B of this section.

B. Any individual who was a member with a vested benefit with the Oklahoma Police Pension and Retirement System on or after July 1, 1987, and who subsequently entered the Oklahoma Law Enforcement Retirement System because he or she was appointed to a position in

the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, or the Alcoholic Beverage Laws Enforcement Commission may, at any time the member is an active employee of ~~the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~ such agency and has not begun receiving benefits from the Oklahoma Police Pension and Retirement System or the Oklahoma Law Enforcement Retirement System, elect in writing to reenter the Oklahoma Police Pension and Retirement System. Such written election shall be provided to the Oklahoma Police Pension and Retirement System. For purposes of this section, constructive receipt of the written election shall be the first day of the month following actual receipt.

~~B.~~ 1. A person who elects to transfer pursuant to this subsection A of this section shall have all of his or her employer and employee contributions made to the Oklahoma Law Enforcement Retirement System transferred to the Oklahoma Police Pension and Retirement System along with accrued earnings based upon the actuarial rate of return of the Oklahoma Law Enforcement Retirement System. Upon receiving the transfer of the employer and employee contributions and earnings, and notwithstanding the provisions of Section 50-111.4 of ~~Title 11 of the Oklahoma Statutes~~ this title, the Oklahoma Police Pension and Retirement System shall treat the service that the member accrued in the Oklahoma Law Enforcement Retirement System as service in the Oklahoma Police Pension and Retirement System; and

~~C.~~ 2. Upon actual receipt of the written election pursuant to this section subsection, the Oklahoma Police Pension and Retirement System shall notify the Oklahoma Law Enforcement Retirement System of the transfer election and shall send to the Oklahoma Law Enforcement Retirement System a copy of the election within five (5) business days. The Oklahoma Law Enforcement Retirement System shall transfer the employer and employee contributions and earnings of the transferring member to the Oklahoma Police Pension and Retirement System on or before the first day of the month following constructive receipt of the election. The transferring member shall then reenter the Oklahoma Police Pension and Retirement System beginning on the first day of the month following the month in which constructive receipt of the written election was made to the Oklahoma Police Pension and Retirement System. Any member who transfers to the Oklahoma Police Pension and Retirement System pursuant to this section subsection shall have all service credit in the Oklahoma Law Enforcement Retirement System canceled.

~~D.~~ C. Notwithstanding the provisions of Section 2-300 et seq. of Title 47 of the Oklahoma Statutes, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, and the Alcoholic Beverage Laws Enforcement Commission shall make employer contributions to the Oklahoma Police Pension and Retirement System in the same manner as participating municipalities of the Oklahoma Police Pension and Retirement System for all members ~~transferring~~ who either elect to remain in or elect to transfer to the Oklahoma Police Pension and Retirement System pursuant to this section. The ~~transferring~~ electing member shall make employee contributions to the Oklahoma Police Pension and

Retirement System as other participating members of the Oklahoma Police Pension and Retirement System.

SECTION 3. This act shall become effective July 1, 2001.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and 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 Senate the 30th day of April, 2001.

Presiding Officer of the Senate

Passed the House of Representatives the 17th day of April, 2001.

Presiding Officer of the House
of Representatives