

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 510

By: Helton

AS INTRODUCED

An Act relating to retirement; amending 11 O.S. 1991, Section 50-115, as last amended by Section 2, Chapter 167, O.S.L. 1999 (11 O.S. Supp. 2000, Section 50-115), which relates to the Oklahoma Police Pension and Retirement System; deleting certain limit on amount of disability benefits; deleting language concerning percentages of impairment; amending findings of the Oklahoma Police Pension and Retirement Board; deleting certain references to permanent and partial disabilities; providing death benefit and monthly disability benefits to members becoming disabled in the line of duty; deleting disability based upon percentages of impairment for disabilities incurred in the line of duty; deleting and moving language; changing reference from "any cause" to "not in the line of duty"; clarifying language; allowing reapplication for disability benefits; providing presumption of certain injury while in the performance of an officer's duties; providing conditions; providing annual benefit increase to certain Oklahoma Police Pension and Retirement System members and beneficiaries; providing offset; providing for codification; 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 50-115, as last amended by Section 2, Chapter 167, O.S.L. 1999 (11 O.S. Supp. 2000, Section 50-115), is amended to read as follows:

Section 50-115. A. The State Board is authorized to pay a disability benefit to a member of the System or a pension to the beneficiaries of such member eligible as hereinafter provided, ~~not exceeding the accrued retirement benefit of the member, except as otherwise provided in this article.~~ Such disability benefit shall be payable immediately upon determination of eligibility. Any preexisting condition identified at the time of any initial or

subsequent membership shall be used to offset the percentage of impairment to the whole person in determining any disability benefit. Once the initial disability benefit has been awarded by the Board ~~on the basis of the percentage of impairment to the whole person~~, the member shall have no further recourse to increase the awarded percentage of impairment.

B. In order for any member to be eligible for any disability benefit, or the member's beneficiaries to be eligible for a pension, 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; and the State Board must find:

1. That the member incurred a ~~permanent total disability or a permanent partial~~ disability or died while in the line of duty, ~~and in consequence of, the performance of duty as an officer~~; or

2. That such member has served ten (10) years and incurred a permanent total disability or a permanent partial disability or has died ~~from any cause~~, not in the line of duty.

C. In the event of the death of any member who has been awarded a disability benefit ~~or is eligible therefor as provided in this article~~ from a disability incurred in the line of duty or is eligible therefor or for a member who died in the line of duty, the member's beneficiary shall be paid the benefit as provided in paragraph 1 of subsection D of this section.

D. 1. Upon determination by the State Board that a member is physically or mentally disabled and that the disability ~~is permanent and total~~ and was incurred while in, ~~and in consequence of, the performance of duty as an officer~~ the line of duty, the member shall be awarded ~~the normal~~ a monthly disability benefit equal to one-half (1/2) of 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.

~~2. Upon determination by the State Board that a member is physically or mentally disabled and that the disability is permanent and partial and was incurred while in, and in consequence of, the performance of duty as an officer, the member shall be awarded a disability benefit on the basis of the percentage of impairment to the whole person, as defined by the most current standards of the impairment as outlined in the "American Medical Association's Guides to the Evaluation of Permanent Impairment", as provided in the following table:~~

~~1% to 24% impairment to whole person = 25% of the normal disability benefit~~

~~25% to 49% impairment to whole person = 50% of the normal disability benefit~~

~~50% to 74% impairment to whole person = 75% of the normal disability benefit~~

~~75% to 99% impairment to whole person = 90% of the normal disability benefit.~~

~~Pursuant only to permanent partial disability incurred while in, and in consequence of, the performance of duty as an officer, if the participating municipality denies a disabled member the option of continuing employment instead of retiring under the above provisions, then the burden of proof rests with the participating municipality to show cause to the State Board that there is no position as a sworn officer within the police department of that municipality which the member can fill.~~

~~3. Upon determination by the State Board that a member is physically or mentally disabled and that the disability is permanent and total and that the member has completed ten (10) years of credited service and is disabled by any cause not in the line of duty the member shall receive a disability benefit on the basis of the member's accrued retirement benefit.~~

~~4.~~ 3. Upon determination by the State Board that a member is physically or mentally disabled and that the disability is permanent and partial and that the member has completed ten (10) years of credited service as a member and is disabled ~~from any cause~~ not in the line of duty, the member shall be awarded a disability benefit on the basis of the member's years of credited service as a member and the percentage of impairment to the whole person, as defined by the most current standards of the impairment as outlined in the "American Medical Association's Guides to the Evaluation of Permanent Impairment", on the basis of the following table:

1% to 24% impaired = 25% of accrued retirement benefit  
25% to 49% impaired = 50% of accrued retirement benefit  
50% to 74% impaired = 75% of accrued retirement benefit  
75% to 99% impaired = 90% of accrued retirement benefit.

~~5.~~ 4. Upon determination by the State Board that a member has completed ten (10) years of credited service and dies ~~from any cause~~ not in the line of duty, the member's beneficiary shall receive the member's accrued retirement benefit.

E. If the participating municipality denies a disabled member the option of continuing employment instead of retiring pursuant to this section, then the burden of proof rests with the participating municipality to show cause to the State Board that there is no position as a sworn officer within the police department of that municipality which the member can fill.

~~D.~~ F. Before making a finding as to the disability of a member, the State Board shall require that, if the member is able, the member shall make a certificate as to the disability which shall be subscribed and sworn to by the member. It shall also require a certificate as to such disability to be made by some physician licensed to practice in this state as selected by the State Board. The State Board may require other evidence of disability before making the disability benefit. The salary of any such member shall

continue while the member is so necessarily confined to such hospital bed or home and necessarily requires medical care or professional nursing on account of such sickness or disability for a period of not more than six (6) months, after which said period the other provisions of this article may apply. The State Board, in making disability benefits, shall act upon the written request of the member or without such request, if it ~~deem~~ deems that it is for the good of the police department. Any disability benefits shall cease when the member receiving ~~same~~ such disability benefits shall be restored to active commissioned police officer service at a salary not less than three-fourths (3/4) of the member's average monthly salary.

G. Persons receiving disability benefits pursuant to this section on or before June 30, 2001, and who receive such benefits on or after July 1, 2001, shall be able to reapply by December 30, 2001, with the System to have benefits amended pursuant to this act if the member would have been eligible for such benefits had the member become disabled on or after the effective date of the act.

H. Any member of a police department of any municipality who has been exposed to hazardous substances in the performance of the officer's duties and is later disabled as a result of disease to any organ, injury to the respiratory system or the existence of any cancer, which disease, injury or cancer was not revealed by the physical examination passed by the member upon entry into the department, shall be presumed to have incurred said disease, injury or cancer while performing the officer's duties as a member of said department unless the contrary is shown by competent evidence.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 50-136.5 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. Beginning July, 2001, and each year in the month of July, if the market rate of return for the Oklahoma Police Pension and

Retirement System is greater or equal to \_\_\_\_ percent (\_\_\_%), every person receiving retirement benefits from the System in June of the previous year and who continues to receive benefits on or after July 1 of the current year, shall receive an increase in such benefits equal to \_\_\_\_\_ percent (\_\_\_%) of the June retirement benefit of the current year.

B. Any increase in benefits granted pursuant to subsection A of this section shall be offset by any increase(s) in benefits a person is eligible to receive pursuant to repealed Section 50-120 of Title 11 of the Oklahoma Statutes during the period beginning with the last benefit increase and ending with June 30 of the year that a benefit is granted pursuant to this section.

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.

48-1-226

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