

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2632

By: McDaniel

AS INTRODUCED

An Act relating to the Oklahoma Police Pension and Retirement System; amending 11 O.S. 2001, Section 50-128, as last amended by Section 4, Chapter 137, O.S.L. 2005 (11 O.S. Supp. 2005, Section 50-128), which relates to military service credit; providing for service credit based upon absence resulting from certain military duty; 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. 2001, Section 50-128, as last amended by Section 4, Chapter 137, O.S.L. 2005 (11 O.S. Supp. 2005, Section 50-128), is amended to read as follows:

Section 50-128. A. Any member who has heretofore left the Police Department qualifying under this article to enter the military service of the United States during World War II and who returned to said department on or before July 1, 1947, or the Korean conflict and who returned to said department on or before January 1, 1956, shall receive credit for such time in military service without having made contribution to the System; and any member who has heretofore left, or hereafter may leave said department because of involuntary conscription into the military services of the United States at any time and who returns to said department within ninety (90) days after the member's release from such involuntary service, or who on or after July 1, 2006, is absent from employment with a department and has used all available forms of paid leave as a result of military service as an enlisted person or officer in any reserve unit of the Armed Forces of the United States or as a result

of military service in the Oklahoma National Guard which service is required pursuant to valid orders issued by the command authority applicable to the branch in which the member serves or by the command authority of the Oklahoma National Guard, shall receive credit for such ~~time in said~~ military service ~~on the Police Department~~ without having made contribution to the System ~~only for that period that is involuntary; voluntary enlistments and voluntary extensions of military service being herewith specifically excluded~~ for retirement credit. The member, upon return to employment with a participating employer in the System, whether or not the same employer with which the member was employed at the time of absence from employment because of military service, shall provide such documentation as the System may require to determine the reserve unit or Oklahoma National Guard unit to which the member was assigned, the validity of the military order which resulted in the absence from employment, the period of time the member was absent from employment or such other information as the System may require. Upon proper documentation of the orders resulting in absence from employment, the System shall compute the period of time the member was absent as participating service credit in the System and such period shall be counted for the same purposes as otherwise required by law as if the member has been continuously employed during such period.

B. A member who began participation in the System prior to July 1, 2003, and who retires on or after July 1, 1998, shall be entitled to prior service credit, not to exceed five (5) years, for those periods of military service on active duty prior to membership in the Oklahoma Police Pension and Retirement System. All members who initially begin participation with the System after June 30, 2003, may acquire prior military service credit for a maximum of five (5) years of such service credit upon payment of the actuarial cost of such service in the manner prescribed by and subject to all of the

requirements of Section 50-111.4 of this title. For members of the System hired or rehired on or after July 1, 2003, if the military service credit authorized by this subsection is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other retirement system created pursuant to the Oklahoma Statutes and the member may receive credit for such service only in the retirement system from which the member first retires.

For purposes of this subsection, "military service" means service in the Armed Forces of the United States by honorably discharged persons during the following time periods, as reflected on such person's Defense Department Form 214, as follows:

1. During the following periods, including the beginning and ending dates, and only for the periods served, from:

- a. April 6, 1917, to November 11, 1918, commonly referred to as World War I,
- b. September 16, 1940, to December 7, 1941, as a member of the 45th Division,
- c. December 7, 1941, to December 31, 1946, commonly referred to as World War II,
- d. June 27, 1950, to January 31, 1955, commonly referred to as the Korean Conflict or the Korean War,
- e. February 28, 1961, to May 7, 1975, commonly referred to as the Vietnam era, except that:
  - (1) for the period from February 28, 1961, to August 4, 1964, military service shall only include service in the Republic of Vietnam during that period, and
  - (2) for purposes of determining eligibility for education and training benefits, such period shall end on December 31, 1976, or

f. August 1, 1990, to December 31, 1991, commonly referred to as the Gulf War, the Persian Gulf War, or Operation Desert Storm, but excluding any person who served on active duty for training only, unless discharged from such active duty for a service-connected disability;

2. During a period of war or combat military operation other than a conflict, war or era listed in paragraph 1 of this subsection, beginning on the date of Congressional authorization, Congressional resolution, or Executive Order of the President of the United States, for the use of the Armed Forces of the United States in a war or combat military operation, if such war or combat military operation lasted for a period of ninety (90) days or more, for a person who served, and only for the period served, in the area of responsibility of the war or combat military operation, but excluding a person who served on active duty for training only, unless discharged from such active duty for a service-connected disability, and provided that the burden of proof of military service during this period shall be with the member, who must present appropriate documentation establishing such service.

C. An eligible member pursuant to subsection B of this section shall include only those persons who shall have served during the times or in the areas prescribed thereunder and only if such person provides appropriate documentation in such time and manner as required by the System to establish such military service prescribed in this section, or for service pursuant to division (1) of subparagraph e of paragraph 1 of subsection B of this section, those persons who were awarded service medals, as authorized by the United States Department of Defense as reflected in the veteran's Defense Department Form 214, related to the Vietnam Conflict for service prior to August 5, 1964. The provisions of subsection B of this section shall include military retirees, whose retirement was based

only on active service, that have been rated as having twenty percent (20%) or greater service-connected disability by the Veterans Administration or the Armed Forces of the United States.

D. Effective December 12, 1994, a leave of absence on account of a period of "qualified military service" in the uniformed services of the United States (within the meaning of Section 414(u) (5) of the Internal Revenue Code of 1986), followed by a return to the service of the participating municipality within ninety (90) days after the completion of the period of service, shall constitute credited service. Notwithstanding any provision herein to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986, which is in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA). The municipality's contributions to the System for a member covered by USERRA are due when such a member makes up his or her contributions that were missed due to his or her qualified military service.

SECTION 2. This act shall become effective July 1, 2006.

SECTION 3. 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.

50-2-7948

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