

STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

HOUSE BILL 3302

By: Thompson

AS INTRODUCED

An Act relating to retirement; amending 11 O.S. 2001, Section 50-101, as last amended by Section 1, Chapter 169, O.S.L. 2009 (11 O.S. Supp. 2009, Section 50-101), which relates to the Oklahoma Police Pension and Retirement System; modifying definitions; 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 50-101, as last amended by Section 1, Chapter 169, O.S.L. 2009 (11 O.S. Supp. 2009, 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;

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

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

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

9 6. "Member" means all eligible officers of a participating
10 municipality and effective July 1, 2010, county sheriff's office and
11 any person hired by a participating municipality or county sheriff's
12 office who is undergoing police training to become a permanent
13 police officer of the municipality or deputy of the county sheriff's
14 office. Effective July 1, 1987, a member does not include a "leased
15 employee" as defined under Section 414(n)(2) of the Internal Revenue
16 Code of 1986, as amended. Effective July 1, ~~1999~~ 2010, any
17 individual who agrees with the participating municipality or the
18 county sheriff's office that the individual's services are to be
19 performed as a leased employee or an independent contractor shall
20 not be a member regardless of any classification as a common law
21 employee by the Internal Revenue Service or any other governmental
22 agency, or any court of competent jurisdiction. A member shall
23 include eligible commissioned officers of the Oklahoma State Bureau
24 of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau

1 of Investigation, and the Alcoholic Beverage Laws Enforcement
2 Commission who elect to participate in the System pursuant to
3 Section 50-111.5 of this 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 or county
23 sheriff's office which is making contributions to the System on
24 behalf of its officers. The Oklahoma State Bureau of Narcotics and

1 Dangerous Drugs Control, the Oklahoma State Bureau of Investigation,
2 and the Alcoholic Beverage Laws Enforcement Commission shall be
3 treated in the same manner as a participating municipality only
4 regarding those members who elect to participate in the System
5 pursuant to Section 50-111.5 of this 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 incapacity to earn any
23 wages as a certified, commissioned police officer due to accidental
24

1 injury or occupational disease, incurred while in, and in
2 consequence of, the performance of duty as an officer;

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

24

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

3 15. "Eligible employer" means any municipality with a municipal
4 police department or any county sheriff's department;

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

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

12 a. Base salary shall not include payment for accumulated
13 sick and annual leave upon termination of employment,
14 severance pay or any uniform allowances. Provided,
15 for purposes of determining the normal disability
16 benefit, final average salary shall be based on the
17 member's total service if less than thirty (30)
18 months. Base salary shall include any amount of
19 elective salary reduction under Section 457 of the
20 Internal Revenue Code of 1986, as amended, and any
21 amount of nonelective salary reduction under Section
22 414(h) of the Internal Revenue Code of 1986, as
23 amended. Effective January 1, 1988, base salary shall
24 include any amount of elective salary reduction under

1 Section 125 of the Internal Revenue Code of 1986, as
2 amended. Effective July 1, 1998, gross salary shall
3 include any amount of elective salary reduction not
4 includable in the gross income of the member under
5 Section 132(f)(4) of the Internal Revenue Code of
6 1986, as amended. Only salary on which required
7 contributions have been made may be used in computing
8 the final average salary.

- 9 b. In addition to other applicable limitations, and
10 notwithstanding any other provision to the contrary,
11 for plan years beginning on or after July 1, 2002, the
12 annual compensation of each "Noneligible Member" taken
13 into account under the System shall not exceed the
14 Economic Growth and Tax Relief Reconciliation Act of
15 2001 (EGTRRA) annual compensation limit. The EGTRRA
16 annual compensation limit is Two Hundred Thousand
17 Dollars (\$200,000.00), as adjusted by the Commissioner
18 for increases in the cost of living in accordance with
19 Section 401(a)(17)(B) of the Internal Revenue Code of
20 1986, as amended. The annual compensation limit in
21 effect for a calendar year applies to any period, not
22 exceeding twelve (12) months, over which compensation
23 is determined ("determination period") beginning in
24 such calendar year. If a determination period

1 consists of fewer than twelve (12) months, the EGTRRA
2 annual compensation limit will be multiplied by a
3 fraction, the numerator of which is the number of
4 months in the determination period, and the
5 denominator of which is twelve (12). For purposes of
6 this section, a "Noneligible Member" is any member who
7 first became a member during a plan year commencing on
8 or after July 1, 1996.

9 c. For plan years beginning on or after July 1, 2002, any
10 reference in the System to the annual compensation
11 limit under Section 401(a)(17) of the Internal Revenue
12 Code of 1986, as amended, shall mean the EGTRRA annual
13 compensation limit set forth in this provision.

14 d. Effective January 1, 2008, base salary shall also
15 include base salary, as described above, but paid by
16 the later of two and one-half (2 1/2) months after a
17 member's severance from employment or the end of the
18 plan year that includes the date the member terminated
19 employment, if it is a payment that, absent a
20 severance from employment, would have been paid to the
21 member while the member continued in employment with
22 the participating municipality.

23 e. Effective January 1, 2008, any payments not described
24 above shall not be considered base salary if paid

1 after severance from employment, even if they are paid
2 by the later of two and one-half (2 1/2) months after
3 the date of severance from employment or the end of
4 the plan year that includes the date of severance from
5 employment, except payments to an individual who does
6 not currently perform services for the participating
7 municipality by reason of qualified military service
8 within the meaning of Section 414(u)(5) of the
9 Internal Revenue Code of 1986, as amended, to the
10 extent these payments do not exceed the amounts the
11 individual would have received if the individual had
12 continued to perform services for the participating
13 municipality rather than entering qualified military
14 service.

15 f. Effective January 1, 2008, back pay, within the
16 meaning of Section 1.415(c)-2(g)(8) of the Income Tax
17 Regulations, shall be treated as base salary for the
18 plan year to which the back pay relates to the extent
19 the back pay represents wages and compensation that
20 would otherwise be included in this definition.

21 g. Effective for years beginning after December 31, 2008,
22 base salary shall also include differential wage
23 payments under Section 414(u)(12) of the Internal
24 Revenue Code of 1986, as amended;

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

4 19. "Normal disability benefit" means two and one-half percent
5 (2 1/2%) of the member's final average salary multiplied by twenty
6 (20) years;

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

10 21. "Paid base salary" means, effective May 1, 2002, all
11 compensation that shall include longevity, educational allowances,
12 and normal compensation paid on a regularly scheduled pay period of
13 which said pay period shall include holidays, annual leave and sick
14 leave. Paid base salary shall not include overtime, shall not
15 include payment for accumulated sick and annual leave upon
16 termination of employment, and shall not include any uniform
17 allowance or any other compensation for reimbursement of out-of-
18 pocket expenses; and

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

1 SECTION 2. This act shall become effective July 1, 2010.

2 SECTION 3. It being immediately necessary for the preservation
3 of the public peace, health and safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.

6

7 52-2-9176 GRS 12/30/09

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

THOMAS E. CUMMINS CONSULTING ACTUARY, INC.
2512 E. 71st Street , Suite D · Tulsa, Oklahoma 74136
(918) 492-9658 · (918) 492- 9659

December 31, 2009

Representative M. Thompson
Room 435-A

Re: RBH No. 9176

RBH No. 9176 allows county deputy sheriffs to become members of the Oklahoma Police Pension and Retirement System.

RBH No. 9176 is a retirement bill having a fiscal impact as defined by the Oklahoma Pension Legislation Analysis Act.

Thomas E. Cummins

Thomas E. Cummins, MAAA