

An Act

ENROLLED HOUSE
BILL NO. 2515

By: McDaniel of the House

and

Quinn of the Senate

An Act relating to the Oklahoma Police Pension and Retirement System; amending 11 O.S. 2011, Section 1-110, which relates to forfeiture of retirement benefits; modifying statutory reference; amending 11 O.S. 2011, Sections 50-111.2, 50-114.1, as last amended by Section 3, Chapter 44, O.S.L. 2014, 50-114.2, as last amended by Section 1, Chapter 132, O.S.L. 2017, 50-114.3, as last amended by Section 2, Chapter 132, O.S.L. 2017 and 50-115 (11 O.S. Supp. 2017, Sections 50-114.1, 50-114.2 and 50-114.3), which relate to administration of the Oklahoma Police Pension and Retirement System; modifying reference; modifying computation with respect to certain annuity amount; imposing requirement with respect to payment of benefits from assets of the System; providing for determination of amount of certain disability benefit; and providing an effective date.

SUBJECT: Oklahoma Police Pension and Retirement System

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 1-110, is amended to read as follows:

Section 1-110. A. Any municipal officer or employee upon final conviction of, or pleading guilty or nolo contendere to, a felony for bribery, corruption, forgery or perjury or any other crime related to the duties of his or her office or employment in a state or federal court of competent jurisdiction shall forfeit retirement benefits provided by law. The forfeiture of retirement benefits shall not occur if any such officer or employee received a deferred

sentence, but retirement benefits shall not commence prior to completion of the deferred sentence. The forfeiture of retirement benefits required by this section shall not include the officer's or employee's contributions to the retirement system or retirement benefits that are vested on the effective date of this act.

B. The forfeiture of retirement benefits as provided by subsection ~~B~~ A of this section shall also apply to any such officer or employee who, after leaving the office or employment, is convicted of, or pleads guilty or nolo contendere to, in a state or federal court of competent jurisdiction, a felony committed while in such office or employment, where the felony is for bribery, corruption, forgery or perjury or any other crime related to the duties of his or her office or employment.

C. The forfeiture shall continue until such time as the conviction or guilty plea is reversed by the highest appellate court to which the officer or employee may appeal.

D. The attorney responsible for prosecuting the municipal officer or employee shall notify the retirement system in which the officer or employee is enrolled of the forfeiture of the officer's or employee's retirement benefits. Upon receipt of the notice of forfeiture, the retirement system shall immediately suspend all benefits of the officer or employee, and shall notify the officer or employee of his or her right to a hearing to review whether the conviction or plea qualifies for forfeiture of benefits under this section. If the conviction or plea occurs in federal court or the notice of forfeiture is not forthcoming from the state prosecutor, the retirement system may investigate and gather court documents and contact prosecutors to determine whether the conviction or plea qualifies under this section. Upon obtaining sufficient documentation of the conviction or plea, the retirement system shall immediately suspend all benefits of the officer or employee, and notify the officer or employee of his or her right to a hearing to review whether the conviction or plea qualifies for forfeiture of benefits under this section.

E. The provisions of this section shall apply to a municipal officer or employee who is a member of a retirement system authorized in Sections 48-101 through 48-106 of ~~Title 11 of the Oklahoma Statutes~~ this title, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System or the Oklahoma Public Employees Retirement System.

SECTION 2. AMENDATORY 11 O.S. 2011, Section 50-111.2, is amended to read as follows:

Section 50-111.2 A. A member of the Oklahoma Police Pension and Retirement System may receive up to five (5) years of credited service accumulated by the member while a member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Law Enforcement Retirement System, the Teacher's Retirement System of Oklahoma, the Oklahoma Public Employees Retirement System or a county retirement system created pursuant to Section 951 of Title 19 of the Oklahoma Statutes or an Oklahoma municipal retirement system, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. The member shall decide the number of years of credited service, not to exceed five (5) years, to purchase. The State Board shall determine the amount for the purchase pursuant to Section 50-111.4 of this title. The amount may be paid through a trustee-to-trustee transfer to the Oklahoma Police Pension and Retirement System from another system designated in this section, and/or through payments made by the member. The transferred credited service of the member from another retirement system pursuant to this section shall not alter the member's normal retirement date or vesting requirements. The transferred credited service will be added after the member reaches normal retirement date or vesting date.

B. The Oklahoma Police Pension and Retirement System shall transfer credited service to another Oklahoma state retirement system upon request of former members. Upon transfer, the former member shall have forfeited all rights in the Oklahoma Police Pension and Retirement System. Employee and city contributions of the former municipal retirement systems prior to January 1, 1981, are not transferable.

SECTION 3. AMENDATORY 11 O.S. 2011, Section 50-114.1, as last amended by Section 3, Chapter 44, O.S.L. 2014 (11 O.S. Supp. 2017, Section 50-114.1), is amended to read as follows:

Section 50-114.1 A. For limitation years prior to July 1, 2007, the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, shall be computed in accordance with the applicable provisions of the System in effect at that time and, to the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-51, except as provided below. Notwithstanding any other provision contained herein to the contrary, the benefits payable to a member

from the System provided by employer contributions (including contributions picked up by the employer under Section 414(h) of the Internal Revenue Code of 1986, as amended) shall be subject to the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, in accordance with the provisions of this section and subsequent guidance. The limitations of this section shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided below.

B. Except as provided below, effective for limitation years ending after December 31, 2001, any accrued retirement benefit payable to a member as an annual benefit as described below shall not exceed One Hundred Sixty Thousand Dollars (\$160,000.00), automatically adjusted under Section 415(d) of the Internal Revenue Code of 1986, as amended, for increases in the cost of living, as prescribed by the Secretary of the Treasury or the Secretary's delegate, effective January 1 of each calendar year and applicable to the limitation year ending with or within such calendar year. The automatic annual adjustment of the dollar limitation in this subsection under Section 415(d) of the Internal Revenue Code of 1986, as amended, shall apply to a member who has had a severance from employment.

1. The member's annual benefit is a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this section. For a member who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this section as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to Section 1.401(a)-20, Q&A 10(d), and with regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.

2. No actuarial adjustment to the benefit shall be made for:

- a. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent

such benefits would not be payable if the member's benefit were paid in another form,

- b. benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits), or
- c. the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to Section 417(e)(3) of the Internal Revenue Code of 1986, as amended, and would otherwise satisfy the limitations of this section, and the System provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this section applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Internal Revenue Code of 1986, as amended. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

3. The determination of the annual benefit shall take into account Social Security supplements described in Section 411(a)(9) of the Internal Revenue Code of 1986, as amended, and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to Section 1.411(d)-4, Q&A-3(c), of the Income Tax Regulations, but shall disregard benefits attributable to employee contributions or rollover contributions.

4. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with paragraph 5 or paragraph 6 of this subsection.

5. Benefit Forms Not Subject to Section 417(e)(3) of the Internal Revenue Code of 1986, as amended: The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this paragraph 5 if the form of the member's benefit is either:

- a. a nondecreasing annuity (other than a straight life annuity) payable for a period of not less than the

life of the member (or, in the case of a qualified preretirement survivor annuity, the life of the surviving spouse), or

- b. an annuity that decreases during the life of the member merely because of:
 - (1) the death of the survivor annuitant (but only if the reduction is not below fifty percent (50%) of the benefit payable before the death of the survivor annuitant), or
 - (2) the cessation or reduction of Social Security supplements or qualified disability payments (as defined in Section 411(a)(9) of the Internal Revenue Code of 1986, as amended).
- c. Limitation Years Beginning Before July 1, 2007. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount:
 - (1) the interest rate and the mortality table (or other tabular factor), each as set forth in subsection G of Section 50-105.4 of this title for adjusting benefits in the same form~~7~~1, and
 - (2) a five percent (5%) interest rate assumption and the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable) for that annuity starting date.
- d. Limitation Year Beginning On January 1, 2008. For the limitation year beginning on January 1, 2008, the actuarially equivalent straight life annuity is equal to the greater of:
 - (1) the annual amount of the straight life annuity (if any) payable to the member under the System

commencing at the same annuity starting date as the member's form of benefit, and

- (2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five percent (5%) interest rate assumption and the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable) for that annuity starting date.
- e. Limitation Years Beginning On or After July 1, 2008. For limitation years beginning on or after July 1, 2008, the actuarially equivalent straight life annuity is equal to the greater of:
- (1) the annual amount of the straight life annuity (if any) payable to the member under the System commencing at the same annuity starting date as the member's form of benefit, and
 - (2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five percent (5%) interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance) for that annuity starting date.

6. Benefit Forms Subject to Section 417(e)(3) of the Internal Revenue Code of 1986, as amended: The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this paragraph 6 if the form of the member's benefit is other than a benefit form described in paragraph 5 of this subsection. In this case, the actuarially equivalent straight life annuity shall be determined as follows:

- a. Annuity Starting Date on or after January 1, 2009. If the annuity starting date of the member's form of benefit is in the period beginning on January 1, 2009, through June 30, 2009, or in a plan year beginning

after June 30, 2009, the actuarially equivalent straight life annuity is equal to the greatest of (1), (2) and (3) below:

- (1) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table (or other tabular factor) as set forth in the most recent actuarial valuation referenced in subsection G of Section 50-105.4 of this title prior to September 1, 2011, and effective September 1, 2011, in paragraph 22 of Section 50-101 of this title, for adjusting benefits in the same form,
- (2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five and one-half percent (5.5%) interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance), and
- (3) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using:
 - (a) ~~the adjusted first, second, and third segment rates~~ applicable interest rate under Section 417(e)(3) ~~(C) and (D)~~ of the Internal Revenue Code of 1986, as amended, ~~applied under rules similar to the rules of Section 430(h)(2)(C) of the Internal Revenue Code of 1986, as amended~~ (and subsequent guidance), for the fourth calendar month preceding the plan year in which falls the annuity starting date for the distribution and the stability period is the successive period of one (1) plan year which contains the annuity starting date for the distribution and for

which the applicable interest rate remains constant, or as otherwise provided in the applicable guidance if the first day of the first plan year beginning after December 31, 2007, does not coincide with the first day of the applicable stability period, and

- (b) the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance),

divided by one and five one-hundredths (1.05).

- b. Annuity Starting Date in the Period Beginning on July 1, 2008 through December 31, 2008. If the annuity starting date of the member's form of benefit is in the period beginning on July 1, 2008, through December 31, 2008, the actuarially equivalent straight life annuity is equal to the greatest of (1), (2) and (3) below:
 - (1) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table (or other tabular factor) each as set forth in subsection G of Section 50-105.4 of this title for adjusting benefits in the same form,
 - (2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five and one-half percent (5.5%) interest rate assumption and the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable), and
 - (3) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using:

- (a) the adjusted first, second, and third segment rates under Section 417(e)(3)(C) and (D) of the Internal Revenue Code of 1986, as amended, applied under rules similar to the rules of Section 430(h)(2)(C) of the Internal Revenue Code of 1986, as amended, for the fourth calendar month preceding the plan year in which falls the annuity starting date for the distribution and the stability period is the successive period of one (1) plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, or as otherwise provided in the applicable guidance if the first day of the first plan year beginning after December 31, 2007, does not coincide with the first day of the applicable stability period, and
- (b) the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable),

divided by one and five one-hundredths (1.05).

- c. Annuity Starting Date in Plan Years Beginning in 2006 or 2007. If the annuity starting date of the member's form of benefit is in a Plan Year beginning in 2006 or 2007, the actuarially equivalent straight life annuity is equal to the greatest of (1), (2) and (3) below:

- (1) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table (or other tabular factor) each as set forth in subsection G of Section 50-105.4 of this title for adjusting benefits in the same form,
- (2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five

and one-half percent (5.5%) interest rate assumption and the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable), and

- (3) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using:
 - (a) the rate of interest on thirty-year Treasury securities as specified by the Commissioner for the lookback month for the stability period specified below. The lookback month applicable to the stability period is the fourth calendar month preceding the first day of the stability period, as specified below. The stability period is the successive period of one (1) plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, and
 - (b) the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable),

divided by one and five one-hundredths (1.05).

d. Annuity Starting Date in Plan Years Beginning in 2004 or 2005:

- (1) If the annuity starting date of the member's form of benefit is in a plan year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greater annual amount:
 - (a) the interest rate and the mortality table (or other tabular factor) each as set forth in subsection G of Section 50-105.4 of this

title for adjusting benefits in the same form, and

- (b) a five and one-half percent (5.5%) interest rate assumption and the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable).
- (2) If the annuity starting date of the member's benefit is on or after the first day of the first plan year beginning in 2004 and before December 31, 2004, the application of this subparagraph shall not cause the amount payable under the member's form of benefit to be less than the benefit calculated under the System, taking into account the limitations of this section, except that the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greatest annual amount:
- (a) the interest rate and mortality table (or other tabular factor) each as set forth in subsection G of Section 50-105.4 of this title for adjusting benefits in the same form,
 - (b) (i) the rate of interest on thirty-year Treasury securities as specified by the Commissioner for the lookback month for the stability period specified below. The lookback month applicable to the stability period is the fourth calendar month preceding the first day of the stability period, as specified below. The stability period is the successive period of one (1) plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, and

- (ii) the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable), and
- (c) (i) the rate of interest on thirty-year Treasury securities as specified by the Commissioner for the lookback month for the stability period specified below. The lookback month applicable to the stability period is the fourth calendar month preceding the first day of the stability period, as specified below. The stability period is the successive period of one (1) plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant (as in effect on the last day of the last plan year beginning before January 1, 2004, under provisions of the System then adopted and in effect), and
- (ii) the applicable mortality table described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable).

C. If a member has less than ten (10) years of participation in the System and all predecessor municipal police pension and retirement systems, the dollar limitation otherwise applicable under subsection B of this section shall be multiplied by a fraction, the numerator of which is the number of the years of participation, or part thereof, in the System of the member, but never less than one (1), and the denominator of which is ten (10).

D. Adjustment of Dollar Limitation for Benefit Commencement Before Age Sixty-two (62) or After Age Sixty-five (65): Effective for benefits commencing in limitation years ending after December 31, 2001, the dollar limitation under subsection B of this section shall be adjusted if the annuity starting date of the member's benefit is before age sixty-two (62) or after age sixty-five (65). If the annuity starting date is before age sixty-two (62), the

dollar limitation under subsection B of this section shall be adjusted under paragraph 1 of this subsection, as modified by paragraph 3 of this subsection, but subject to paragraph 4 of this subsection. If the annuity starting date is after age sixty-five (65), the dollar limitation under subsection B of this section shall be adjusted under paragraph 2 of this subsection, as modified by paragraph 3 of this subsection.

1. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement Before Age Sixty-two (62):

- a. Limitation Years Beginning Before July 1, 2007. If the annuity starting date for the member's benefit is prior to age sixty-two (62) and occurs in a limitation year beginning before July 1, 2007, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:
 - (1) the interest rate and the mortality table (or other tabular factor) each as set forth in subsection G of Section 50-105.4 of this title, or
 - (2) a five-percent interest rate assumption and the applicable mortality table as described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable).
- b. Limitation Years Beginning On or After July 1, 2007.
 - (1) System Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-two (62) and the Age of Benefit Commencement.
 - (a) If the annuity starting date for the member's benefit is prior to age sixty-two (62) and occurs in the limitation year

beginning on January 1, 2008, and the System does not have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five-percent interest rate assumption and the applicable mortality table for the annuity starting date as described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable) (and expressing the member's age based on completed calendar months as of the annuity starting date).

- (b) If the annuity starting date for the member's benefit is prior to age sixty-two (62) and occurs in a limitation year beginning on or after January 1, 2009, and the System does not have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five-percent interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in

Rev. Rul. 2007-67 (and subsequent guidance) (and expressing the member's age based on completed calendar months as of the annuity starting date).

- (2) System Has Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-two (62) and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age sixty-two (62) and occurs in a limitation year beginning on or after July 1, 2007, and the System has an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the lesser of the limitation determined under division (1) of subparagraph b of this paragraph and the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the System at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the System at age sixty-two (62), both determined without applying the limitations of this section.
- (3) Effective for limitation years commencing on or after January 1, 2014, notwithstanding any other provision of paragraph 1 of this subsection, the age-adjusted dollar limit applicable to a member shall not decrease on account of an increase in age or the performance of additional services.

2. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement After Age Sixty-five (65):

- a. Limitation Years Beginning Before July 1, 2007. If the annuity starting date for the member's benefit is after age sixty-five (65) and occurs in a limitation year beginning before July 1, 2007, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of

a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

- (1) the interest rate and the mortality table (or other tabular factor) each as set forth in subsection G of Section 50-105.4 of this title, or
- (2) a five-percent interest rate assumption and the applicable mortality table as described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable).

b. Limitation Years Beginning On or After July 1, 2007.

- (1) System Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-five (65) and the Age of Benefit Commencement.
 - (a) If the annuity starting date for the member's benefit is after age sixty-five (65) and occurs in the limitation year beginning on January 1, 2008, and the System does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five-percent interest rate assumption and the applicable mortality table for the annuity starting

date as described in Rev. Rul. 2001-62 (or its successor for these purposes, if applicable) (and expressing the member's age based on completed calendar months as of the annuity starting date).

- (b) If the annuity starting date for the member's benefit is after age sixty-five (65) and occurs in a limitation year beginning on or after January 1, 2009, and the System does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) with actuarial equivalence computed using a five-percent interest rate assumption and the applicable mortality table within the meaning of Section 417(e)(3)(B) of the Internal Revenue Code of 1986, as amended, as described in Rev. Rul. 2007-67 (and subsequent guidance) (and expressing the member's age based on completed calendar months as of the annuity starting date).
- (2) System Has Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-five (65) and Age of Commencement. If the annuity starting date for the member's benefit is after age sixty-five (65) and occurs in a limitation year beginning on or after July 1, 2007, and the System has an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the lesser of the limitation determined under division (1) of subparagraph b of this paragraph

and the dollar limitation under subsection B of this section (adjusted under subsection C of this section for years of participation less than ten (10), if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the System at the member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the System at age sixty-five (65), both determined without applying the limitations of this section. For this purpose, the adjusted immediately commencing straight life annuity under the System at the member's annuity starting date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after age sixty-five (65) but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the System at age sixty-five (65) is the annual amount of such annuity that would be payable under the System to a hypothetical member who is age sixty-five (65) and has the same accrued benefit as the member.

3. Notwithstanding the other requirements of this subsection, no adjustment shall be made to the dollar limitation under subsection B of this section to reflect the probability of a member's death between the annuity starting date and age sixty-two (62), or between age sixty-five (65) and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the System does not charge members for providing a qualified preretirement survivor annuity, as defined in Section 417(c) of the Internal Revenue Code of 1986, as amended, upon the member's death.

4. Notwithstanding any other provision to the contrary, for limitation years beginning on or after January 1, 1997, if payment begins before the member reaches age sixty-two (62), the reductions in the limitations in this subsection shall not apply to a member

who is a "qualified participant" as defined in Section 415(b) (2) (H) of the Internal Revenue Code of 1986, as amended.

E. Minimum Benefit Permitted: Notwithstanding anything else in this section to the contrary, the benefit otherwise accrued or payable to a member under this System shall be deemed not to exceed the maximum permissible benefit if:

1. The retirement benefits payable for a limitation year under any form of benefit with respect to such member under this System and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by a participating municipality do not exceed Ten Thousand Dollars (\$10,000.00) multiplied by a fraction:

- a. the numerator of which is the member's number of credited years (or part thereof, but not less than one (1) year) of service (not to exceed ten (10) years) with the participating municipality, and
- b. the denominator of which is ten (10); and

2. The participating municipality (or a predecessor employer) has not at any time maintained a defined contribution plan in which the member participated (for this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under Section 401(h) of the Internal Revenue Code of 1986, as amended, and accounts for postretirement medical benefits established under Section 419A(d) (1) of the Internal Revenue Code of 1986, as amended, are not considered a separate defined contribution plan).

F. In no event shall the maximum annual accrued retirement benefit of a member allowable under this section be less than the annual amount of such accrued retirement benefit, including early pension and qualified joint and survivor annuity amounts, duly accrued by the member as of the last day of the limitation year beginning in 1982, or as of the last day of the limitation year beginning in 1986, whichever is greater, disregarding any plan changes or cost-of-living adjustments occurring after July 1, 1982, as to the 1982 accrued amount, and May 5, 1986, as to the 1986 accrued amount.

G. If a member purchases service credit under the System, which qualifies as "permissive service credit" pursuant to Section 415(n)

of the Internal Revenue Code of 1986, as amended, the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, may be met by either:

1. Treating the accrued benefit derived from such contributions as an annual benefit under subsection B of this section~~7~~; or

2. Treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code of 1986, as amended.

H. If a member repays to the System any amounts refunded from the System because of such member's prior termination or any other amount which qualifies as a repayment under Section 415(k)(3) of the Internal Revenue Code of 1986, as amended, such repayment shall not be taken into account for purposes of Section 415 of the Internal Revenue Code of 1986, as amended, pursuant to Section 415(k)(3) of the Internal Revenue Code of 1986, as amended.

I. For limitation years beginning on or after January 1, 1995, subsection C of this section, paragraph 1 of subsection D of this section, and the proration provided under subparagraphs a and b of paragraph 1 of subsection E of this section shall not apply to a benefit paid under the System as the result of the member becoming disabled by reason of personal injuries or sickness, or amounts received by the beneficiaries, survivors or estate of the member as the result of the death of the member.

J. For distributions made in limitation years beginning on or after January 1, 2000, the combined limit of repealed Section 415(e) of the Internal Revenue Code of 1986, as amended, shall not apply.

K. The State Board is hereby authorized to revoke the special election previously made on June 19, 1991, under Section 415(b)(10) of the Internal Revenue Code of 1986, as amended.

L. All benefits payable from the Oklahoma Police Pension and Retirement System, including payments from the deferred option plans under Section 50-111.3 of this title, shall be paid from the general assets of the Fund pursuant to subsection B of Section 50-105.6 of this title.

SECTION 4. AMENDATORY 11 O.S. 2011, Section 50-114.2, as last amended by Section 1, Chapter 132, O.S.L. 2017 (11 O.S. Supp. 2017, Section 50-114.2), is amended to read as follows:

Section 50-114.2 A. This section applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the Oklahoma Police Pension and Retirement System to the contrary that would otherwise limit a Distributee's election hereunder, a Distributee, including a nonspouse designated beneficiary, to the extent permitted under paragraph 3 of subsection B of this section, may elect, at the time and in the manner prescribed by the Oklahoma Police Pension and Retirement Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

B. For purposes of this section, the following definitions shall apply:

1. "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended; and the portion of any distribution that is not includable in gross income. A portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax member contributions which are not includable in gross income. However, such portion may be transferred only:

a. from January 1, 2002, through December 31, 2006:

- (1) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or
- (2) in a direct trustee-to-trustee transfer, to a qualified trust which is part of a defined contribution plan that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable, and

b. on or after January 1, 2007:

- (1) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or
- (2) in a direct trustee-to-trustee transfer, to a qualified trust or an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, and such trust or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable.

Effective for distributions after December 31, 2007, such after-tax portion may also be directly transferred to a Roth individual retirement account or annuity, described in Section 408A of the Internal Revenue Code of 1986, as amended (Roth IRA), subject to any limitations described in Section 408A(c) of the Internal Revenue Code of 1986, as amended.

Notwithstanding the foregoing, effective January 1, 2009, to the extent applicable, if all or a portion of a distribution from the Oklahoma Police Deferred Option Plan during 2009 is treated as an Eligible Rollover Distribution pursuant to Section 402(c)(4) of the Internal Revenue Code of 1986, as amended, but would not be so treated if the minimum distribution requirements under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, had applied during 2009, such distribution shall not be treated as an Eligible Rollover Distribution for purposes of Section 401(a)(31), Section 3405(c) or Section 402(f) of the Internal Revenue Code of 1986, as amended;

2. "Eligible Retirement Plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1986, as amended, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986, as amended, an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986, as amended, or a qualified trust described in Section 401(a) of the Internal Revenue Code of 1986, as amended, that accepts the Distributee's Eligible Rollover Distribution. Effective

January 1, 2002, an Eligible Retirement Plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, and an eligible plan under Section 457(b) of the Internal Revenue Code of 1986, as amended, which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the System. Effective for distributions after December 31, 2007, an Eligible Retirement Plan includes a Roth IRA, subject to any limitations under Section 408A(c) of the Internal Revenue Code of 1986, as amended. Effective for distributions after December 18, 2015, an Eligible Retirement Plan includes a SIMPLE IRA in accordance with Section 408(p)(1)(B) of the Internal Revenue Code of 1986, as amended, for purposes of a rollover contribution to such SIMPLE IRA, but only if such rollover contribution is made after December 18, 2015, and only if such rollover contribution occurs after the two-year period described in Section 72(t)(6) of the Internal Revenue Code of 1986, as amended;

3. "Distributee" means an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic order, as defined in subsection B of Section 50-124 of this title, are Distributees with regard to the interest of the spouse or the former spouse. A Distributee also includes the member's nonspouse designated beneficiary (and certain trusts described in Section 402(c)(11)(B) of the Internal Revenue Code of 1986, as amended), pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended, who may elect any portion of a payment to be made in a Direct Rollover only to an individual retirement account or annuity (other than an endowment contract) described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, (IRA), (including, effective for distributions after December 18, 2015, a SIMPLE IRA but only if such contribution occurs after the two-year period described in Section 72(t)(6) of the Internal Revenue Code, as amended, and is made in accordance with the Protecting Americans from Tax Hikes Act of 2015), or, effective for distributions after December 31, 2007, to a Roth IRA, that is established on behalf of such nonspouse designated beneficiary for the purpose of receiving the distribution and that will be treated as an inherited IRA pursuant to the provisions of Section 402(c)(11) of the Internal Revenue Code of 1986, as amended. Also, in this case, the determination of any required minimum distribution under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, that is

ineligible for rollover shall be made in accordance with Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395. The required minimum distribution rules of Section 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue Code of 1986, as amended, apply to the transferee IRA; and

4. "Direct Rollover" means a payment by the System to the Eligible Retirement Plan specified by the Distributee.

C. At least thirty (30) days before and, effective for years beginning after December 31, 2006, not more than one hundred eighty (180) days before the date of distribution, the Distributee (other than a nonspouse designated beneficiary prior to July 1, 2010) must be provided with a notice of rights which satisfies Section 402(f) of the Internal Revenue Code of 1986, as amended, as to rollover options and tax effects. Such distribution may commence less than thirty (30) days after the notice is given, provided that:

1. The Oklahoma Police Pension and Retirement Board clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution; and

2. The Distributee, after receiving the notice, affirmatively elects a distribution.

D. For distributions made after December 31, 2006, but prior to July 1, 2010, a distribution with respect to a nonspouse designated beneficiary shall be made in accordance with Notice 2007-7, Q&A 15, 2007-5 Internal Revenue Bulletin 395. Effective for plan years beginning after December 31, 2009, a distribution with respect to a nonspouse designated beneficiary shall be subject to Sections 401(a)(31), 402(f), and 3405(c) of the Internal Revenue Code of 1986, as amended.

E. Effective for distributions after December 31, 2014, for purposes of determining the portion of a disbursement of benefits from the System to a Distributee that is not includible in gross income under Section 72 of the Internal Revenue Code of 1986, as amended, the guidance under I.R.S. Notice 2014-54 shall be followed.

SECTION 5. AMENDATORY 11 O.S. 2011, Section 50-114.3, as last amended by Section 2, Chapter 132, O.S.L. 2017 (11 O.S. Supp. 2017, Section 50-114.3), is amended to read as follows:

Section 50-114.3 A. An individual who has been designated, pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended, as the beneficiary of a deceased member and who is not the surviving spouse of the member, may elect, in accordance with Section 402(c)(11) of the Internal Revenue Code of 1986, as amended, to have a direct trustee-to-trustee transfer of any portion of such beneficiary's distribution from the System made only to an individual retirement account or individual retirement annuity (other than an endowment contract) described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended (IRA), (including, effective for distributions after December 18, 2015, a SIMPLE IRA but only if such contribution occurs after the two-year period described in Section 72(t)(6) of the Internal Revenue Code of 1986, as amended, and is made in accordance with the Protecting Americans from Tax Hikes Act of 2015), or, effective for distributions after December 31, 2007, to a Roth individual retirement account or annuity described in Section 408A of the Internal Revenue Code of 1986, as amended (Roth IRA), that is established on behalf of such designated individual for the purpose of receiving the distribution. If such transfer is made, then:

1. For distributions made after December 31, 2006, but prior to July 1, 2010, the transfer is treated as an eligible rollover distribution for purposes of Section 402(c)(11) of the Internal Revenue Code of 1986, as amended. For plan years beginning after December 31, 2009, the transfer is treated as an eligible rollover distribution;

2. The transferee IRA is treated as an inherited individual retirement account or an inherited individual retirement annuity (within the meaning of Section 408(d)(3)(C) of the Internal Revenue Code of 1986, as amended), and must be titled in the name of the deceased member, for the benefit of the beneficiary; and

3. The required minimum distribution rules of Section 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue Code of 1986, as amended, apply to the transferee IRA.

B. A trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.

C. The State Board shall promulgate such rules as are necessary to implement the provisions of this section.

SECTION 6. AMENDATORY 11 O.S. 2011, 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, 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.

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, the member's beneficiary shall be paid the benefit.

D. As of the date of determination by the State Board that a member is physically or mentally disabled and that the disability is permanent and partial or permanent and total as was incurred while in, and in consequence of, the performance or 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 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 100% impairment to whole person =	100% of the normal disability benefit.

E. If the participating municipality denies a disabled member the option of continuing employment instead of retiring on a disability pension, 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.

F. 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, the member shall receive a disability benefit on the basis of the member's accrued retirement benefit. A permanent and total impairment equates to one hundred percent (100%) of accrued retirement benefit.

G. 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, 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.

H. 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 it for the good of the police department. Any disability benefits shall cease when the member receiving same shall be restored to active service at a salary not less than three-fourths ($3/4$) of the member's average monthly salary.

I. Any member of a police department of any municipality who, in the line of duty, has been exposed to hazardous substances, including but not limited to chemicals used in the manufacture of a controlled dangerous substance or chemicals resulting from the manufacture of a controlled dangerous substance, or to blood-borne pathogens and who is later disabled from a condition that was the result of such exposure and that was not revealed by the physical examination passed by the member upon entry into the System shall be presumed to have incurred such disability while performing the officer's duties unless the contrary is shown by competent evidence. The presumption created by this subsection shall have no application whatever to any workers' compensation claim or claims, and it shall not be applied or be relied upon in any way in workers' compensation proceedings. All compensation or benefits due to any member pursuant to the presumption created by this subsection shall be paid solely by the system.

J. If the requirements of Section 50-114.4 of this title are satisfied, a member who, by reason of disability, is separated from service as a public safety officer with the member's participating municipality, may elect to have payment made directly to the provider for qualified health insurance premiums by deduction from his or her monthly disability benefit, after December 31, 2006, in accordance with Section 402(1) of the Internal Revenue Code of 1986, as amended.

SECTION 7. This act shall become effective November 1, 2018.

Passed the House of Representatives the 5th day of March, 2018.

Presiding Officer of the House
of Representatives

Passed the Senate the 9th day of April, 2018.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

THOMAS E. CUMMINS CONSULTING ACTUARY, INC.

2512 E. 71st Street , Suite D · Tulsa, Oklahoma 74136

(918) 492-9658 · (918) 492-9659

December 28, 2017

Representative Randy McDaniel
Room 438

Re: RBH No. 8174

RBH No. 8174 contains changes in the statute necessary for Oklahoma Police Pension and Retirement System to remain an IRS qualified plan. It does not contain any changes to the retirement benefits.

RBH No. 8174 is a non fiscal bill as defined by the Oklahoma Pension Legislation Analysis Act because the bill does not contain a benefit increase.

I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Thomas E. Cummins

Thomas E. Cummins, MAAA