

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 3330

By: Perryman, **Boles** and **Ford**COMMITTEE SUBSTITUTE

An Act relating to public retirement systems; enacting the Sergeant Schoolfield Line of Duty Disability Act; amending 62 O.S. 2011, Section 3103, as last amended by Section 2, Chapter 245, O.S.L. 2018 (62 O.S. Supp. 2019, Section 3103), which relates to the Oklahoma Pension Legislation Actuarial Analysis Act; modifying definitions; amending 11 O.S. 2011, Section 50-115, as amended by Section 6, Chapter 20, O.S.L. 2018 (11 O.S. Supp. 2019, Section 50-115), which relates to the Oklahoma Police Pension and Retirement System; modifying provisions related to disability benefit determinations; specifying percentage of disability with respect to certain injury resulting from violent act; defining term; providing for noncodification; and providing effective dates.

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

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

1 This act shall be known and may be cited as the "Sergeant
2 Schoolfield Line of Duty Disability Act".

3 SECTION 2. AMENDATORY 62 O.S. 2011, Section 3103, as
4 last amended by Section 2, Chapter 245, O.S.L. 2018 (62 O.S. Supp.
5 2019, Section 3103), is amended to read as follows:

6 Section 3103. As used in the Oklahoma Pension Legislation
7 Actuarial Analysis Act:

8 1. "Amendment" means any amendment, including a substitute
9 bill, made to a retirement bill by any committee of the House or
10 Senate, any conference committee of the House or Senate or by the
11 House or Senate;

12 2. "RB number" means that number preceded by the letters "RB"
13 assigned to a retirement bill by the respective staffs of the
14 Oklahoma State Senate and the Oklahoma House of Representatives when
15 the respective staff office prepares a retirement bill for a member
16 of the Legislature;

17 3. "Legislative Actuary" means the firm or entity that enters
18 into a contract with the Legislative Service Bureau pursuant to
19 Section 452.15 of Title 74 of the Oklahoma Statutes to provide the
20 actuarial services and other duties provided for in the Oklahoma
21 Pension Legislation Actuarial Analysis Act;

22 4. "Nonfiscal amendment" means an amendment to a retirement
23 bill having a fiscal impact, which amendment does not change any
24

1 factor of an actuarial investigation specified in subsection A of
2 Section 3109 of this title;

3 5. "Nonfiscal retirement bill" means a retirement bill:

4 a. which does not affect the cost or funding factors of a
5 retirement system, or

6 b. which affects such factors only in a manner which does
7 not:

8 (1) grant a benefit increase under the retirement
9 system affected by the bill,

10 (2) create an actuarial accrued liability for or
11 increase the actuarial accrued liability of the
12 retirement system affected by the bill, or

13 (3) increase the normal cost of the retirement system
14 affected by the bill,

15 c. which authorizes the purchase by an active member of
16 the retirement system, at the actuarial cost for the
17 purchase as computed pursuant to the statute in effect
18 on the effective date of the measure allowing such
19 purchase, of years of service for purposes of reaching
20 a normal retirement date in the applicable retirement
21 system, but which cannot be used in order to compute
22 the number of years of service for purposes of
23 computing the retirement benefit for the member,
24

- d. which provides for the computation of a service-connected disability retirement benefit for members of the Oklahoma Law Enforcement Retirement System pursuant to Section 2-305 of Title 47 of the Oklahoma Statutes if the members were unable to complete twenty (20) years of service as a result of the disability,
- e. which requires membership in the defined benefit plan authorized by Section 901 et seq. of Title 74 of the Oklahoma Statutes for persons whose first elected or appointed service occurs on or after November 1, 2018, if such persons had any prior service in the Oklahoma Public Employees Retirement System prior to November 1, 2015, ~~or~~
- f. which provides for a one-time increase in retirement benefits if the increase in retirement benefits is not a permanent increase in the gross annual retirement benefit payable to a member or beneficiary, occurs only once pursuant to a single statutory authorization and does not exceed:
- (1) the lesser of two percent (2%) of the gross annual retirement benefit of the member or One Thousand Dollars (\$1,000.00) and requires that the benefit may only be provided if the funded ratio of the affected retirement system would not

1 be less than sixty percent (60%) but not greater
2 than eighty percent (80%) after the benefit
3 increase is paid,

4 (2) the lesser of two percent (2%) of the gross
5 annual retirement benefit of the member or One
6 Thousand Two Hundred Dollars (\$1,200.00) and
7 requires that the benefit may only be provided if
8 the funded ratio of the affected retirement
9 system would be greater than eighty percent (80%)
10 but not greater than one hundred percent (100%)
11 after the benefit increase is paid,

12 (3) the lesser of two percent (2%) of the gross
13 annual retirement benefit of the member or One
14 Thousand Four Hundred Dollars (\$1,400.00) and
15 requires that the benefit may only be provided if
16 the funded ratio of the affected retirement
17 system would be greater than one hundred percent
18 (100%) after the benefit increase is paid, or

19 (4) the greater of two percent (2%) of the gross
20 annual retirement benefit of the volunteer
21 firefighter or One Hundred Dollars (\$100.00) for
22 persons who retired from the Oklahoma
23 Firefighters Pension and Retirement System as
24 volunteer firefighters and who did not retire

1 from the Oklahoma Firefighters Pension and
2 Retirement System as a paid firefighter.

3 As used in this subparagraph, "funded ratio" means the
4 figure derived by dividing the actuarial value of
5 assets of the applicable retirement system by the
6 actuarial accrued liability of the applicable
7 retirement system, or

8 g. which modifies the disability pension standard for
9 police officers who are members of the Oklahoma Police
10 Pension and Retirement System as provided by Section 3
11 of this act.

12 A nonfiscal retirement bill shall include any retirement bill that
13 has as its sole purpose the appropriation or distribution or
14 redistribution of monies in some manner to a retirement system for
15 purposes of reducing the unfunded liability of such system or the
16 earmarking of a portion of the revenue from a tax to a retirement
17 system or increasing the percentage of the revenue earmarked from a
18 tax to a retirement system;

19 6. "Reduction-in-cost amendment" means an amendment to a
20 retirement bill having a fiscal impact which reduces the cost of the
21 bill as such cost is determined by the actuarial investigation for
22 the bill prepared pursuant to Section 3109 of this title;

23 7. "Retirement bill" means any bill or joint resolution
24 introduced or any bill or joint resolution amended by a member of

1 the Oklahoma Legislature which creates or amends any law directly
2 affecting a retirement system. A retirement bill shall not mean a
3 bill or resolution that impacts the revenue of any state tax in
4 which a portion of the revenue generated from such tax is earmarked
5 for the benefit of a retirement system;

6 8. "Retirement bill having a fiscal impact" means any
7 retirement bill creating or establishing a retirement system and any
8 other retirement bill other than a nonfiscal retirement bill; and

9 9. "Retirement system" means the Teachers' Retirement System of
10 Oklahoma, the Oklahoma Public Employees Retirement System, the
11 Uniform Retirement System for Justices and Judges, the Oklahoma
12 Firefighters Pension and Retirement System, the Oklahoma Police
13 Pension and Retirement System, the Oklahoma Law Enforcement
14 Retirement System, or a retirement system established after January
15 1, 2006.

16 SECTION 3. AMENDATORY 11 O.S. 2011, Section 50-115, as
17 amended by Section 6, Chapter 20, O.S.L. 2018 (11 O.S. Supp. 2019,
18 Section 50-115), is amended to read as follows:

19 Section 50-115. A. The State Board is authorized to pay a
20 disability benefit to a member of the System or a pension to the
21 beneficiaries of such member eligible as hereinafter provided, not
22 exceeding the accrued retirement benefit of the member, except as
23 otherwise provided in this article. Such disability benefit shall
24 be payable immediately upon determination of eligibility. Any

1 preexisting condition identified at the time of any initial or
2 subsequent membership shall be used to offset the percentage of
3 impairment to the whole person in determining any disability
4 benefit. Once the initial disability benefit has been awarded by
5 the Board on the basis of the percentage of impairment to the whole
6 person, the member shall have no further recourse to increase the
7 awarded percentage of impairment.

8 B. In order for any member to be eligible for any disability
9 benefit, or the member's beneficiaries to be eligible for a pension,
10 the member must have complied with any agreement as to contributions
11 by the member and other members to any funds of the System where
12 said agreement has been made as provided by this article; and the
13 State Board must find:

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

17 2. That such member has served ten (10) years and incurred a
18 permanent total disability or a permanent partial disability or has
19 died from any cause.

20 C. In the event of the death of any member who has been awarded
21 a disability benefit or is eligible therefor as provided in this
22 article, the member's beneficiary shall be paid the benefit.

23 D. 1. As of the date of determination by the State Board that
24 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 or as prescribed by paragraph 2 of this subsection with respect to injuries sustained as a result of a violent act:

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.

2. If an injury to a member results from a violent act as defined by this paragraph while in the performance of their duties as a police officer, the State Board shall make a determination that the member has sustained a one-hundred-percent disability and shall make the benefit award in accordance with that standard. As used in this paragraph, "violent act" means a violent attack upon the member by means of a dangerous weapon, including, but not limited to, a firearm, knife, automobile, explosive device or other dangerous weapon.

1 E. If the participating municipality denies a disabled member
2 the option of continuing employment instead of retiring on a
3 disability pension, then the burden of proof rests with the
4 participating municipality to show cause to the State Board that
5 there is no position as a sworn officer within the police department
6 of that municipality which the member can fill.

7 F. Upon determination by the State Board that a member is
8 physically or mentally disabled and that the disability is permanent
9 and total and that the member has completed ten (10) years of
10 credited service and is disabled by any cause, the member shall
11 receive a disability benefit on the basis of the member's accrued
12 retirement benefit. A permanent and total impairment equates to one
13 hundred percent (100%) of accrued retirement benefit.

14 G. Upon determination by the State Board that a member is
15 physically or mentally disabled and that the disability is permanent
16 and partial and that the member has completed ten (10) years of
17 credited service as a member and is disabled from any cause, the
18 member shall be awarded a disability benefit on the basis of the
19 member's years of credited service as a member and the percentage of
20 impairment to the whole person, as defined by the most current
21 standards of the impairment as outlined in the "American Medical
22 Association's Guides to the Evaluation of Permanent Impairment", on
23 the basis of the following table:

24 1% to 24% impaired = 25% of accrued retirement benefit

1 25% to 49% impaired = 50% of accrued retirement benefit

2 50% to 74% impaired = 75% of accrued retirement benefit

3 75% to 99% impaired = 90% of accrued retirement benefit.

4 H. Before making a finding as to the disability of a member,
5 the State Board shall require that, if the member is able, the
6 member shall make a certificate as to the disability which shall be
7 subscribed and sworn to by the member. It shall also require a
8 certificate as to such disability to be made by some physician
9 licensed to practice in this state as selected by the State Board.
10 The State Board may require other evidence of disability before
11 making the disability benefit. The salary of any such member shall
12 continue while the member is so necessarily confined to such
13 hospital bed or home and necessarily requires medical care or
14 professional nursing on account of such sickness or disability for a
15 period of not more than six (6) months, after which said period the
16 other provisions of this article may apply. The State Board, in
17 making disability benefits, shall act upon the written request of
18 the member or without such request, if it deem it for the good of
19 the police department. Any disability benefits shall cease when the
20 member receiving same shall be restored to active service at a
21 salary not less than three-fourths (3/4) of the member's average
22 monthly salary.

23 I. Any member of a police department of any municipality who,
24 in the line of duty, has been exposed to hazardous substances,

1 including but not limited to chemicals used in the manufacture of a
2 controlled dangerous substance or chemicals resulting from the
3 manufacture of a controlled dangerous substance, or to blood-borne
4 pathogens and who is later disabled from a condition that was the
5 result of such exposure and that was not revealed by the physical
6 examination passed by the member upon entry into the System shall be
7 presumed to have incurred such disability while performing the
8 officer's duties unless the contrary is shown by competent evidence.
9 The presumption created by this subsection shall have no application
10 whatever to any workers' compensation claim or claims, and it shall
11 not be applied or be relied upon in any way in workers' compensation
12 proceedings. All compensation or benefits due to any member
13 pursuant to the presumption created by this subsection shall be paid
14 solely by the system.

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

23 SECTION 4. Section 2 of this act shall become effective October
24 1, 2020.

SECTION 5. Sections 1 and 3 of this act shall become effective
November 1, 2020.

COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND
PENSIONS, dated 02/20/2020 - DO PASS, As Amended and Coauthored.