

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1188

By: Taylor, Jett, Coleman,
Kidd, and Bergstrom of the
Senate

and

Newton and Roberts (Dustin)
of the House

COMMITTEE SUBSTITUTE

An Act relating to state pensions; amending 11 O.S. 2021, Sections 50-111.3 and 50-112, which relate to the Oklahoma Police Pension and Retirement System; modifying provision related to assumed rate of return; allowing municipalities under certain population to hire certain retired police officers without reentering system; allowing for retired persons to be hired as police officers under certain circumstances without entrance into system; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 2021, Section 50-111.3, is amended to read as follows:

Section 50-111.3 A. In lieu of terminating employment and accepting a service retirement pension pursuant to Section 50-114 of this title, any member of the Oklahoma Police Pension and Retirement

1 System who has not less than twenty (20) years of creditable service
2 and who is eligible to receive a service retirement pension may make
3 an irrevocable election to participate in the Oklahoma Police
4 Deferred Option Plan and defer the receipts of benefits in
5 accordance with the provisions of this section.

6 B. For purposes of this section, creditable service shall
7 include service credit reciprocally recognized pursuant to Section
8 50-101 et seq. of this title but for eligibility purposes only.

9 C. The duration of participation in the Oklahoma Police
10 Deferred Option Plan for a member shall not exceed five (5) years.
11 Participation in the Oklahoma Police Deferred Option Plan must begin
12 the first day of a month and end on the last day of a month. At the
13 conclusion of a member's participation in the Oklahoma Police
14 Deferred Option Plan, the member shall terminate employment with all
15 participating municipalities as an officer, and shall start
16 receiving the member's accrued monthly retirement benefit from the
17 System. Such a member may receive in-service distributions of such
18 member's accrued monthly retirement benefit from the System if such
19 member is reemployed by a participating municipality only if such
20 reemployment is as a police chief or in a position not covered under
21 the System.

22 D. When a member begins participation in the Oklahoma Police
23 Deferred Option Plan, the contribution of the employee shall cease.
24 The employer contributions shall continue to be paid in accordance

with Section 50-109 of this title. Municipal contributions for employees who elect the Oklahoma Police Deferred Option Plan shall be credited equally to the Oklahoma Police Pension and Retirement System and to the Oklahoma Police Deferred Option Plan. The monthly retirement benefits that would have been payable had the member elected to cease employment and receive a service retirement shall be paid into the Oklahoma Police Deferred Option Plan account.

E. 1. A member who participates in this plan shall be eligible to receive cost of living increases.

2. A member who participates in this plan shall earn interest at a rate of two percentage points below the rate of return of the investment portfolio of the System, but no less than ~~the actuarial assumed interest rate as certified by the actuary in the yearly evaluation report of the actuary~~ seven and one-half percent (7.5%) interest effective July 1, 2022. The interest shall be credited to the individual account balance of the member on an annual basis.

F. A participant in the Oklahoma Police Deferred Option Plan shall receive, at the option of the participant:

1. A lump sum payment from the account equal to the option account balance of the participant, payable to the participant;

2. A lump sum payment from the account equal to the option account balance of the participant, payable to the annuity provider which shall be selected by the participant as a result of the research and investigation of the participant; or

1 3. Any other method of payment if approved by the State Board.

2 Notwithstanding any other provision contained herein to the
3 contrary, commencement of distributions under the Oklahoma Police
4 Deferred Option Plan shall be no later than the time as set forth in
5 subsection C of Section 50-114 of this title.

6 G. If the participant dies during the period of participation
7 in the Oklahoma Police Deferred Option Plan, a lump sum payment
8 equal to the account balance of the participant shall be paid to the
9 recipients, which may include a trust, properly designated in
10 writing by the participant or, if none, to the surviving spouse who
11 was married to the participant for the thirty (30) continuous months
12 immediately preceding the death of the participant; provided, a
13 surviving spouse of a participant who died in, and as a consequence
14 of, the performance of the participant's duty for a participating
15 municipality shall not be subject to the thirty-month marriage
16 requirement for survivor benefits or, if no surviving spouse, to the
17 estate of the participant.

18 H. In lieu of participating in the Oklahoma Police Deferred
19 Option Plan pursuant to subsections A, B, C, D, E, and F of this
20 section, a member may make an irrevocable election to participate in
21 the Oklahoma Police Deferred Option Plan pursuant to this subsection
22 as follows:

23 1. For purposes of this subsection, the following definitions
24 shall apply:

- 1 a. "back drop date" means the date selected by the
2 member, which is up to five (5) years before the
3 member elects to participate in the Oklahoma Police
4 Deferred Option Plan, but not before the date at which
5 the member completes twenty (20) years of credited
6 service,
- 7 b. "termination date" means the date the member elects to
8 participate in the Oklahoma Police Deferred Option
9 Plan pursuant to this subsection, and the date the
10 member terminates employment with all participating
11 municipalities as an active police officer, such
12 termination has at all times included reemployment of
13 a member by a participating municipality only if such
14 reemployment is as a police chief or in a position not
15 covered under the System,
- 16 c. "earlier attained credited service" means the credited
17 service earned by a member as of the back drop date,
18 and earlier attained credited service cannot be
19 reduced to less than twenty (20) years of credited
20 service, and
- 21 d. "deferred benefit balance" means all monthly
22 retirement benefits that would have been payable had
23 the member elected to cease employment on the back
24 drop date and receive a service retirement from the

1 back drop date to the termination date, all of the
2 member's contributions and one-half (1/2) of the
3 employer contributions from the back drop date to the
4 termination date, with interest based on how the
5 benefit would have accumulated as if the member had
6 participated in the Oklahoma Police Deferred Option
7 Plan pursuant to subsections A, B, C, D and E of this
8 section from the back drop date to the termination
9 date;

10 2. At the termination date, the monthly pension benefit shall
11 be determined based on earlier attained credited service and on the
12 final average salary as of the back drop date. The member's
13 individual deferred option account shall be credited with an amount
14 equal to the deferred benefit balance; the member shall terminate
15 employment with all participating municipalities as a police officer
16 and shall start receiving the member's accrued monthly retirement
17 benefit from the System. The provisions of subsections B, C, E, F,
18 and G of this section shall apply to this subsection. A member
19 shall not participate in the Oklahoma Police Deferred Option Plan
20 pursuant to this subsection if the member has elected to participate
21 in the Oklahoma Police Deferred Option Plan pursuant to subsections
22 A, B, C, D, E, and F of this section; and

23 3. If a member who has not less than twenty (20) years of
24 creditable service and who is eligible to receive a service

1 retirement pension dies prior to terminating employment, the
2 surviving spouse shall be eligible to elect to receive a benefit
3 determined as if the member had elected to participate in the
4 Oklahoma Police Deferred Option Plan in accordance with this
5 subsection on the day immediately preceding the death. The
6 surviving spouse must have been married to the member for the thirty
7 (30) continuous months preceding the member's death; provided, the
8 surviving spouse of a member who died while in, and as a consequence
9 of, the performance of the member's duty for a participating
10 municipality shall not be subject to the thirty-month marriage
11 requirement for this election.

12 SECTION 2. AMENDATORY 11 O.S. 2021, Section 50-112, is
13 amended to read as follows:

14 Section 50-112. A. All persons employed as full-time duly
15 appointed or elected officers who are paid for working more than
16 twenty-five (25) hours per week or any person hired by a
17 participating municipality who is undergoing police training to
18 become a permanent police officer of the municipality shall
19 participate in the System upon initial employment with a police
20 department of a participating municipality. All such persons shall
21 submit to a physical-medical examination pertaining to sight,
22 hearing, agility and other conditions the requirements of which
23 shall be established by the State Board. The person shall be
24 required to complete this physical-medical examination prior to the

1 beginning of actual employment. This examination shall identify any
2 preexisting conditions. Except as otherwise provided in this
3 section, a police officer shall be not less than twenty-one (21) nor
4 more than forty-five (45) years of age when accepted for membership
5 in the System. However, if a municipality should be found to be in
6 noncompliance with the provisions of Article 50 of this title, as
7 determined by the State Board, then any current full-time active
8 police officer employed by a municipality as of July 1, 2001, shall
9 not be denied eligibility to participate in the Oklahoma Police
10 Pension and Retirement System solely due to age. The State Board
11 shall have authority to deny or revoke membership of any person
12 submitting false information in such person's membership
13 application. The State Board shall have final authority in
14 determining eligibility for membership in the System, pursuant to
15 the provisions of this article.

16 B. The police chief of any participating municipality may be
17 exempt from membership in the System or may become a member provided
18 the member is not a retired member and the requirements of this
19 section are met at the time of employment.

20 C. A member of the System who has attained his or her normal
21 retirement date may, if the member so elects, agree to terminate
22 employment and retire as a member of the System and make an election
23 to receive distributions from the System. If a retired member is
24 reemployed by a participating municipality in the position of police

1 chief or in a position which is not covered by the System,
2 retirement shall include receipt by such retired member of in-
3 service distributions from the System.

4 D. A former member of the System who terminates from covered
5 employment and who has neither retired from the System nor entered
6 the Oklahoma Police Deferred Option Plan and is later employed in a
7 covered position with a participating municipality shall not be
8 denied eligibility to become a member of the System because he or
9 she is forty-five (45) years of age or older. If such member has
10 withdrawn his or her contributions prior to re-entering the System
11 and the member desires to receive credit for such prior service,
12 then the member shall pay back such contributions and interest
13 pursuant to Section 50-111.1 of this title.

14 E. Notwithstanding any other provision of law to the contrary,
15 a municipality ~~that employs two (2) or fewer full-time police~~
16 ~~officers~~ with a population of four thousand five hundred (4,500) or
17 less, according to the latest Federal Decennial Census, may employ a
18 ~~police officer~~ retired police officers who ~~is~~ are more than forty-
19 five (45) years of age and who ~~has never~~ have participated in the
20 Oklahoma Police Pension and Retirement System, ~~but such police~~
21 ~~officer~~ and are receiving retirement benefits. Such officers shall
22 not be eligible to reenter and participate in the System. ~~Such~~
23 ~~police officer shall be counted in the limitation imposed by this~~
24 ~~subsection.~~ Notwithstanding any other provisions of law, the State

1 Board shall be granted access to information concerning a list of
2 actively working police officers within the municipalities and
3 agencies under the purview provided by the Council on Law
4 Enforcement Education and Training.

5 SECTION 3. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 50-112.1 of Title 11, unless
7 there is created a duplication in numbering, reads as follows:

8 Notwithstanding any other provision of law, any person who is
9 receiving retirement benefits from a state pension system may be
10 hired by a municipality with a population of four thousand five
11 hundred (4,500) or less, according to the latest Federal Decennial
12 Census, to fulfill the duties and obligations of a police officer.
13 Such persons shall not be subject to the requirements and
14 obligations of the Oklahoma Police Pension and Retirement System and
15 shall not be eligible to enter into the System.

16 SECTION 4. This act shall become effective November 1, 2022.
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