

## STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

HOUSE BILL 2499

By: Frix

AS INTRODUCED

An Act relating to public retirement systems; amending 11 O.S. 2011, Sections 50-111.1, as last amended by Section 2, Chapter 346, O.S.L. 2016, 50-111.3, as amended by Section 3, Chapter 346, O.S.L. 2019, 50-114, as amended by Section 5, Chapter 346, O.S.L. 2019 and 50-115.2, as amended by Section 4, Chapter 44, O.S.L. 2014 (11 O.S. Supp. 2020, Sections 50-111.1, 50-111.3, 50-114 and 50-115.2), which relate to the Oklahoma Police Pension and Retirement System; modifying provisions related to authorized payments; providing for payment of certain amounts to estates or trusts; 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. 2011, Section 50-111.1, as last amended by Section 2, Chapter 346, O.S.L. 2016 (11 O.S. Supp. 2020, Section 50-111.1), is amended to read as follows:

Section 50-111.1 A. A member who terminates service before normal retirement date, other than by death or disability shall, upon application filed with the State Board, be refunded from the Fund an amount equal to the accumulated contributions the member has made to the Fund, but excluding any interest or any amount

1 contributed by the municipality or state. If a member withdraws the  
2 member's accumulated contributions, such member shall not have any  
3 recourse against the System for any type of additional benefits  
4 including, but not limited to, disability benefits. If a member has  
5 completed ten (10) years of credited service at the date of  
6 termination, the member may elect a vested benefit in lieu of  
7 receiving the member's accumulated contributions.

8 If the member who has completed ten (10) or more years of  
9 credited service elects the vested benefit, the member shall be  
10 entitled to a monthly retirement annuity commencing on the date the  
11 member reaches fifty (50) years of age or the date the member would  
12 have had twenty (20) years of credited service had the member's  
13 employment continued uninterrupted, whichever is later. The annual  
14 amount of such retirement annuity shall be equal to two and one-half  
15 percent (2 1/2%) of the annualized final average salary multiplied  
16 by the number of years of credited service.

17 If a terminated member has elected a vested benefit and  
18 subsequently returns to work as a police officer of a participating  
19 municipality, their vested benefit will be set aside and prior  
20 credited service will be reinstated.

21 B. If a member who terminates employment and elects a vested  
22 benefit dies prior to being eligible to receive benefits, the  
23 member's beneficiary shall be entitled to the member's normal  
24

1 monthly accrued retirement benefits on the date the deceased member  
2 would have been eligible to receive the benefit.

3 C. Whenever a member has terminated or hereafter terminates  
4 covered employment and has withdrawn or hereafter withdraws the  
5 member's accumulated contributions and has rejoined or hereafter  
6 rejoins the System, the member, upon proper application and approval  
7 by the Board, may pay to the System the sum of the accumulated  
8 contributions the member has withdrawn or hereafter withdraws plus  
9 ten percent (10%) annual interest from the date of withdrawal and  
10 shall receive the same benefits as if the member had never withdrawn  
11 the contributions. A lump-sum payment for repayment of any amounts  
12 received because of a member's prior termination may be repaid by  
13 trustee-to-trustee transfers of non-Roth funds from a Section 403(b)  
14 annuity, an eligible Section 457(b) plan, and/or a Section 401(a)  
15 qualified plan. Those members who at the time of termination of  
16 employment could not withdraw any of their accumulated contributions  
17 shall receive credited service for the time employed as an officer  
18 prior to any such termination upon proper application and approval  
19 by the Board. To receive credit for such service, all required  
20 contributions and interest shall be paid within ninety (90) days of  
21 Board approval of the application. The provisions of this  
22 subsection shall not apply to any member who is receiving benefits  
23 from the System as of July 1, 1987.

1 D. If an active member dies and does not leave a surviving  
2 beneficiary under paragraph 13 of Section 50-101 of this title, the  
3 accumulated contributions made to the System by the member shall be  
4 paid to the member's estate ~~of~~ or, if properly designated by the  
5 member, a trust.

6 SECTION 2. AMENDATORY 11 O.S. 2011, Section 50-111.3, as  
7 amended by Section 3, Chapter 346, O.S.L. 2019 (11 O.S. Supp. 2020,  
8 Section 50-111.3), is amended to read as follows:

9 Section 50-111.3 A. In lieu of terminating employment and  
10 accepting a service retirement pension pursuant to Section 50-114 of  
11 this title, any member of the Oklahoma Police Pension and Retirement  
12 System who has not less than twenty (20) years of creditable service  
13 and who is eligible to receive a service retirement pension may make  
14 an irrevocable election to participate in the Oklahoma Police  
15 Deferred Option Plan and defer the receipts of benefits in  
16 accordance with the provisions of this section.

17 B. For purposes of this section, creditable service shall  
18 include service credit reciprocally recognized pursuant to Section  
19 50-101 et seq. of this title but for eligibility purposes only.

20 C. The duration of participation in the Oklahoma Police  
21 Deferred Option Plan for a member shall not exceed five (5) years.  
22 Participation in the Oklahoma Police Deferred Option Plan must begin  
23 the first day of a month and end on the last day of a month. At the  
24 conclusion of a member's participation in the Oklahoma Police

1 Deferred Option Plan, the member shall terminate employment with all  
2 participating municipalities as an officer, and shall start  
3 receiving the member's accrued monthly retirement benefit from the  
4 System. Such a member may receive in-service distributions of such  
5 member's accrued monthly retirement benefit from the System if such  
6 member is reemployed by a participating municipality only if such  
7 reemployment is as a police chief or in a position not covered under  
8 the System.

9 D. When a member begins participation in the Oklahoma Police  
10 Deferred Option Plan, the contribution of the employee shall cease.  
11 The employer contributions shall continue to be paid in accordance  
12 with Section 50-109 of this title. Municipal contributions for  
13 employees who elect the Oklahoma Police Deferred Option Plan shall  
14 be credited equally to the Oklahoma Police Pension and Retirement  
15 System and to the Oklahoma Police Deferred Option Plan. The monthly  
16 retirement benefits that would have been payable had the member  
17 elected to cease employment and receive a service retirement shall  
18 be paid into the Oklahoma Police Deferred Option Plan account.

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

21 2. A member who participates in this plan shall earn interest  
22 at a rate of two percentage points below the rate of return of the  
23 investment portfolio of the System, but no less than the actuarial  
24 assumed interest rate as certified by the actuary in the yearly

1 evaluation report of the actuary. The interest shall be credited to  
2 the individual account balance of the member on an annual basis.

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

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

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

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

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

16 G. If the participant dies during the period of participation  
17 in the Oklahoma Police Deferred Option Plan, a lump sum payment  
18 equal to the account balance of the participant shall be paid to the  
19 recipients, which may include a trust, properly designated in  
20 writing by the participant or, if none, to the surviving spouse who  
21 was married to the participant for the thirty (30) continuous months  
22 immediately preceding the death of the participant; provided, a  
23 surviving spouse of a participant who died in, and as a consequence  
24 of, the performance of the participant's duty for a participating

1 municipality shall not be subject to the thirty-month marriage  
2 requirement for survivor benefits or, if no surviving spouse, to the  
3 estate of the participant.

4 H. In lieu of participating in the Oklahoma Police Deferred  
5 Option Plan pursuant to subsections A, B, C, D, E and F of this  
6 section, a member may make an irrevocable election to participate in  
7 the Oklahoma Police Deferred Option Plan pursuant to this subsection  
8 as follows:

9 1. For purposes of this subsection, the following definitions  
10 shall apply:

- 11 a. "back drop date" means the date selected by the  
12 member, which is up to five (5) years before the  
13 member elects to participate in the Oklahoma Police  
14 Deferred Option Plan, but not before the date at which  
15 the member completes twenty (20) years of credited  
16 service,
- 17 b. "termination date" means the date the member elects to  
18 participate in the Oklahoma Police Deferred Option  
19 Plan pursuant to this subsection, and the date the  
20 member terminates employment with all participating  
21 municipalities as an active police officer, such  
22 termination has at all times included reemployment of  
23 a member by a participating municipality only if such  
24

1           reemployment is as a police chief or in a position not  
2           covered under the System,

3           c. "earlier attained credited service" means the credited  
4           service earned by a member as of the back drop date,  
5           and earlier attained credited service cannot be  
6           reduced to less than twenty (20) years of credited  
7           service, and

8           d. "deferred benefit balance" means all monthly  
9           retirement benefits that would have been payable had  
10          the member elected to cease employment on the back  
11          drop date and receive a service retirement from the  
12          back drop date to the termination date, all of the  
13          member's contributions and one-half (1/2) of the  
14          employer contributions from the back drop date to the  
15          termination date, with interest based on how the  
16          benefit would have accumulated as if the member had  
17          participated in the Oklahoma Police Deferred Option  
18          Plan pursuant to subsections A, B, C, D and E of this  
19          section from the back drop date to the termination  
20          date;

21          2. At the termination date, the monthly pension benefit shall  
22          be determined based on earlier attained credited service and on the  
23          final average salary as of the back drop date. The member's  
24          individual deferred option account shall be credited with an amount



1 equal to the deferred benefit balance; the member shall terminate  
2 employment with all participating municipalities as a police officer  
3 and shall start receiving the member's accrued monthly retirement  
4 benefit from the System. The provisions of subsections B, C, E, F  
5 and G of this section shall apply to this subsection. A member  
6 shall not participate in the Oklahoma Police Deferred Option Plan  
7 pursuant to this subsection if the member has elected to participate  
8 in the Oklahoma Police Deferred Option Plan pursuant to subsections  
9 A, B, C, D, E and F of this section; and

10       3. If a member who has not less than twenty (20) years of  
11 creditable service and who is eligible to receive a service  
12 retirement pension dies prior to terminating employment, the  
13 surviving spouse shall be eligible to elect to receive a benefit  
14 determined as if the member had elected to participate in the  
15 Oklahoma Police Deferred Option Plan in accordance with this  
16 subsection on the day immediately preceding the death. The  
17 surviving spouse must have been married to the member for the thirty  
18 (30) continuous months preceding the member's death; provided, the  
19 surviving spouse of a member who died while in, and as a consequence  
20 of, the performance of the member's duty for a participating  
21 municipality shall not be subject to the thirty-month marriage  
22 requirement for this election.

1       SECTION 3.       AMENDATORY       11 O.S. 2011, Section 50-114, as  
2 amended by Section 5, Chapter 346, O.S.L. 2019 (11 O.S. Supp. 2020,  
3 Section 50-114), is amended to read as follows:

4       Section 50-114. A. The State Board is hereby authorized to pay  
5 out of funds in the System a monthly service pension to any member  
6 eligible as hereinafter provided, not exceeding in any event the  
7 amount of money in such funds and not exceeding in any event the  
8 accrued retirement benefit for such member, except as provided for  
9 herein. In order for a member to be eligible for such service  
10 pension the following requirements must be complied with:

11       1. The member's service with the police department for any  
12 participating municipality must have ceased; however, a member may  
13 be subsequently reemployed in the position of police chief pursuant  
14 to subsection C of Section 50-112 of this title;

15       2. The member must have reached the member's normal retirement  
16 date; and

17       3. The member must have complied with any agreement as to  
18 contributions by the member and other members to any funds of the  
19 System where said agreement has been made as provided by this  
20 article; provided, that should a retired member receive disability  
21 benefits as provided in this and other sections of this article, the  
22 time the retired member is receiving said disability benefits shall  
23 count as time on active service if the retired member should be  
24 recalled by the Chief of Police from said disability retirement. It

1 shall be necessary before said time shall be counted toward  
2 retirement that the retired member make the same contribution as the  
3 member would have otherwise made if on active service for the time  
4 the retired member was disabled.

5 B. Any member complying with all requirements of this article,  
6 who reaches normal retirement date, upon application, shall be  
7 retired at the accrued retirement benefit. When a member has served  
8 for the necessary number of years and is otherwise eligible, as  
9 provided in this article, if such member is discharged without cause  
10 by the participating municipality, the member shall be eligible for  
11 a pension.

12 C. Effective July 1, 1989, in no event shall commencement of  
13 distribution of the accrued retirement benefit of a member be  
14 delayed beyond April 1 of the calendar year following the later of:

15 1. The calendar year in which the member reaches seventy and  
16 one-half (70 1/2) years of age; or

17 2. The actual retirement date of the member.

18 For distributions made for calendar years beginning on or after  
19 January 1, 2001, through December 31, 2004, the System shall apply  
20 the minimum distribution requirements and incidental benefit  
21 requirements of Section 401(a)(9) of the Internal Revenue Code of  
22 1986, as amended, in accordance with the regulations under Section  
23 401(a)(9) of the Internal Revenue Code of 1986, as amended, which  
24 were proposed on January 17, 2001, notwithstanding any provision of

1 the System to the contrary. For distributions made for calendar  
2 years beginning on or after January 1, 2005, the System shall apply  
3 the minimum distribution incidental benefit requirements, incidental  
4 benefit requirements, and minimum distribution requirements of  
5 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,  
6 in accordance with the final regulations under Section 401(a)(9) of  
7 the Internal Revenue Code of 1986, as amended, which were issued in  
8 April 2002 and June 2004, notwithstanding any provision of the  
9 System to the contrary. Effective January 1, 2009, with respect to  
10 the Oklahoma Police Deferred Option Plan, to the extent applicable,  
11 no minimum distribution is required for 2009 in accordance with  
12 Section 401(a)(9)(H) of the Internal Revenue Code of 1986, as  
13 amended.

14 Effective September 8, 2009, notwithstanding anything to the  
15 contrary of the System, the System, which is a governmental plan  
16 (within the meaning of Section 414(d) of the Internal Revenue Code  
17 of 1986, as amended) is treated as having complied with Section  
18 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all  
19 years to which Section 401(a)(9) of the Internal Revenue Code of  
20 1986, as amended, applies to the System if the System complies with  
21 a reasonable and good faith interpretation of Section 401(a)(9) of  
22 the Internal Revenue Code of 1986, as amended.

23 D. In the event of the death of any member who has been awarded  
24 a retirement benefit or is eligible therefor as provided in this

1 section, such member's beneficiaries shall be paid such retirement  
2 benefit. The remaining portion of the member's retirement benefit  
3 shall be distributed to the beneficiaries at least as rapidly as  
4 under the method of distribution to the member. Effective March 1,  
5 1997, if a member to whom a retirement benefit has been awarded or  
6 who is eligible therefor dies prior to the date as of which the  
7 total amount of retirement benefit paid equals the total amount of  
8 the employee contributions paid by or on behalf of the member and  
9 the member does not have a surviving beneficiary under paragraph 13  
10 of Section 50-101 of this title, the total benefits paid as of the  
11 date of the member's death shall be subtracted from the accumulated  
12 employee contribution amount and the balance, if greater than zero  
13 (0), shall be paid to the member's estate.

14 E. The State Board may review and affirm a member's request for  
15 retirement benefits prior to the member's normal retirement date  
16 provided that no retirement benefits are paid prior to the normal  
17 retirement date.

18 F. A member retired under the provisions of this article may  
19 apply to the State Board to have the member's retirement benefits  
20 set aside and may make application for disability benefits. Upon  
21 approval of the disability benefits, the member would become subject  
22 to all provisions of this article pertaining to disability  
23 retirement.

1       G. Upon the death of a retired member ~~or a beneficiary~~, the  
2 benefit payment for the month in which the retired member ~~or~~  
3 ~~beneficiary~~ died, if not previously paid, shall be made to the  
4 beneficiary of the member, which shall include a successor in  
5 interest for whom an affidavit is provided to the System in  
6 accordance with Section 393 of Title 58 of the Oklahoma Statutes, or  
7 ~~to the member's or beneficiary's estate~~ if there is no surviving  
8 beneficiary under paragraph 13 of Section 50-101 of this title, to  
9 the member's estate or, if properly designated by the member, a  
10 trust. Upon the death of a beneficiary, the benefit payment for the  
11 month in which the beneficiary died, if not previously paid, shall  
12 be made to the beneficiary's estate or, if properly designated by  
13 the beneficiary, to a trust. Such benefit payment shall be made in  
14 an amount equal to a full monthly benefit payment regardless of the  
15 day of the month in which the retired member or beneficiary died.

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

1       SECTION 4.       AMENDATORY       11 O.S. 2011, Section 50-115.2, as  
2 amended by Section 4, Chapter 44, O.S.L. 2014 (11 O.S. Supp. 2020,  
3 Section 50-115.2), is amended to read as follows:

4       Section 50-115.2 Upon the death of an active or retired member,  
5 the Oklahoma Police Pension and Retirement System shall pay to the  
6 beneficiary of the member under paragraph 13 of Section 50-101 of  
7 this title or if there is no such beneficiary or if ~~the~~ such  
8 beneficiary predeceases the member, to the member's estate ~~of~~ or if  
9 properly designated by the member, to a trust, the sum of Four  
10 Thousand Dollars (\$4,000.00) as a death benefit for those active or  
11 retired members who died prior to July 1, 1999. For those active or  
12 retired members who die on or after July 1, 1999, the sum shall be  
13 Five Thousand Dollars (\$5,000.00).

14       SECTION 5. This act shall become effective July 1, 2021.

15       SECTION 6. It being immediately necessary for the preservation  
16 of the public peace, health or safety, an emergency is hereby  
17 declared to exist, by reason whereof this act shall take effect and  
18 be in full force from and after its passage and approval.

19  
20       58-1-6805       MAH       01/04/21  
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January 18, 2021

Representative Avery Frix  
Room 405.1

Re: RBH No. 6805

RBH No. 6805 allows the Police Pension and Retirement System to pay death benefit to a trust.

RBH No. 6805 is a nonfiscal bill as defined by OPLAAA.

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