

SENATE FLOOR VERSION

April 4, 2023

ENGROSSED HOUSE
BILL NO. 2131By: George and McDugle of the
House

and

Jett of the Senate

An Act relating to retirement; amending 11 O.S. 2021,
Sections 50-109, 50-110, and 50-124, which relate to
the Oklahoma Police Pension and Retirement System;
modifying how certain sums shall be paid; providing
exception; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 2021, Section 50-109, is
amended to read as follows:

Section 50-109. Any municipality participating in the System
shall appropriate funds, for the use and benefit of the System, as
provided in the following schedule:

1. Prior to July 1, 1991, a minimum of ten percent (10%) of the
actual paid base salary of each member of the System employed by the
municipality;

2. Beginning July 1, 1991, a minimum of ten and one-half percent (10 1/2%) of the actual paid base salary of each member of the System employed by the municipality;

3. Beginning July 1, 1992, a minimum of eleven percent (11%) of the actual paid base salary of each member of the System employed by the municipality;

4. Beginning July 1, 1993, a minimum of eleven and one-half percent (11 1/2%) of the actual paid base salary of each member of the System employed by the municipality;

5. Beginning July 1, 1994, a minimum of twelve percent (12%) of the actual paid base salary of each member of the System employed by the municipality;

6. Beginning July 1, 1995, a minimum of twelve and one-half percent (12 1/2%) of the actual paid base salary of each member of the System employed by the municipality; and

7. Beginning July 1, 1996, a minimum of thirteen percent (13%) of the actual paid base salary of each member of the System employed by the municipality.

The sum appropriated shall be paid online to the System within ten (10) days following the payroll period on which the contribution is based.

The state shall make such appropriation as is necessary to assure the retirement benefits provided by the article.

1 SECTION 2. AMENDATORY 11 O.S. 2021, Section 50-110, is
2 amended to read as follows:

3 Section 50-110. A. Each member in the System shall contribute
4 to the System a minimum of eight percent (8%) of the member's actual
5 paid base salary.

6 At the option of the participating municipality, the
7 participating municipality may pay all or any part of the member's
8 required contribution. The sums contributed shall be paid online to
9 the System as provided in this article within ten (10) days
10 following the payroll period on which the contributions are based.
11 Amounts deducted from the salary of a member and not paid to the
12 System after thirty (30) days from each ending payroll date shall be
13 subject to a monthly late charge of one and one-half percent (1
14 1/2%) of the unpaid balance to be paid by the municipality to the
15 System. All funds received by a participating municipality for
16 police retirement purposes shall be forwarded to the State Board for
17 credit to the Fund.

18 B. Each municipality shall pick up under the provisions of
19 Section 414(h)(2) of the Internal Revenue Code of 1986 and pay the
20 contribution which the member is required by law to make to the
21 System for all compensation earned after December 31, 1988.
22 Although the contributions so picked up are designated as member
23 contributions, such contributions shall be treated as contributions
24 being paid by the municipality in lieu of contributions by the

1 member in determining tax treatment under the Internal Revenue Code
2 of 1986 and such picked up contributions shall not be includable in
3 the gross income of the member until such amounts are distributed or
4 made available to the member or the beneficiary of the member. The
5 member, by the terms of this System, shall not have any option to
6 choose to receive the contributions so picked up directly and the
7 picked up contributions must be paid by the municipality to the
8 System.

9 Member contributions which are picked up shall be treated in the
10 same manner and to the same extent as member contributions made
11 prior to the date on which member contributions were picked up by
12 the municipality. Member contributions so picked up shall be
13 included in gross salary for purposes of determining benefits and
14 contributions under the System.

15 The municipality shall pay the member contributions from the
16 same source of funds used in paying salary to the member, by
17 effecting an equal cash reduction in gross salary of the member.

18 SECTION 3. AMENDATORY 11 O.S. 2021, Section 50-124, is
19 amended to read as follows:

20 Section 50-124. A. Except as otherwise provided by this
21 section, no portion of any of the funds of the System shall, either
22 before or after any order made by the State Board for payment to any
23 person entitled to a pension or allowance, be held, seized, taken,
24 subjected to, or detained, or levied on by virtue of any

1 garnishment, attachment, execution, injunction, or other order or
2 decree or any process or proceeding whatever, issued out of or by
3 any court of this state for the payment or satisfaction, in whole or
4 in part, of any debt, damage, claim, demand or judgment against any
5 such person entitled to payment, nor shall said payments or any
6 claim thereto be directly or indirectly assigned, and any attempt to
7 assign or transfer the same shall be void. The said funds shall be
8 held, invested, secured and distributed for the purposes named in
9 this article, and for no other purpose whatever.

10 B. 1. The provisions of subsection A of this section shall not
11 apply to a qualified domestic order as provided pursuant to this
12 subsection.

13 2. The term "qualified domestic order" means an order issued by
14 a district court of this state pursuant to the domestic relation
15 laws of the State of Oklahoma which relates to the provision of
16 marital property rights to a spouse or former spouse of a member or
17 provision of support for a minor child or children and which creates
18 or recognizes the existence of the right of an alternate payee, or
19 assigns to an alternate payee the right, to receive a portion of the
20 benefits payable with respect to a member of the System.

21 3. For purposes of the payment of marital property, to qualify
22 as an alternate payee, a spouse or former spouse must have been
23 married to the related member for a period of not less than thirty
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1 (30) continuous months immediately preceding the commencement of the
2 proceedings from which the qualified domestic order issues.

3 4. A qualified domestic order is valid and binding on the State
4 Board and the related member only if it meets the requirements of
5 this subsection.

6 5. A qualified domestic order shall clearly specify:

7 a. the name and last-known mailing address (if any) of
8 the member and the name and mailing address of the
9 alternate payee covered by the order,

10 b. the amount or percentage of the member's benefits to
11 be paid by the System to the alternate payee,

12 c. the number of payments or period to which such order
13 applies,

14 d. the characterization of the benefit as to marital
15 property rights or child support, and

16 e. each plan to which such order applies.

17 6. A qualified domestic order meets the requirements of this
18 subsection only if such order:

19 a. does not require the System to provide any type or
20 form of benefit, or any option not otherwise provided
21 under state law as relates to the System,

22 b. does not require the System to provide increased
23 benefits, and
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1 c. does not require the payment of benefits to an
2 alternate payee which are required to be paid to
3 another alternate payee pursuant to another order
4 previously determined to be a qualified domestic order
5 or an order recognized by the System as a valid order
6 prior to the effective date of this act.

7 7. A qualified domestic order shall not require payment of
8 benefits to an alternate payee prior to the actual retirement date
9 of the related member.

10 8. The obligation of the System to pay an alternate payee
11 pursuant to a qualified domestic order shall cease upon the death of
12 the related member.

13 9. This subsection shall not be subject to the provisions of
14 the Employee Retirement Income Security Act of 1974 (ERISA), 29
15 U.S.C.A. Section 1001, et seq., as amended from time to time, or
16 rules and regulations promulgated thereunder, and court cases
17 interpreting said act.

18 10. The Oklahoma Police Pension and Retirement Board shall
19 promulgate such rules as are necessary to implement the provisions
20 of this subsection.

21 11. An alternate payee who has acquired beneficiary rights
22 pursuant to a valid qualified domestic order must fully comply with
23 all provisions of the rules promulgated by the State Board pursuant
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1 to this subsection in order to continue receiving his or her
2 benefit.

3 C. Notwithstanding any other provision of law to the contrary,
4 effective August 5, 1997, the State Board may approve any offset of
5 a member's benefit to pay a judgment or settlement against the
6 member for a crime involving the System or for a breach of the
7 member's fiduciary duty to the System, provided such offset is in
8 accordance with the requirements of Section 401(a)(13) of the
9 Internal Revenue Code of 1986, as amended.

10 D. The provision of subsection A of this section shall not
11 apply to a Child Support Enforcement Division order for a support
12 arrearage pursuant to Section 240.23 of Title 56 of the Oklahoma
13 Statutes and current child support payments made pursuant to a valid
14 court order.

15 SECTION 4. This act shall become effective November 1, 2023.

16 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
17 April 4, 2023 - DO PASS
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