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April 2, 2024

ENGROSSED HOUSE
BILL NO. 3858

By: Ford of the House

and

Paxton of the Senate

An Act relating to retirement; amending 11 O.S. 2021, Sections 50-110, as amended by Section 2, Chapter 53, O.S.L. 2023 (11 O.S. Supp. 2023, Section 50-110) and 50-114, as last amended by Section 5, Chapter 151, O.S.L. 2023 (11 O.S. Supp. 2023, Section 50-114), which relate to the Police Pension and Retirement System; modifying late charge amount; updating reference; directing that revisions be taken into account; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2021, Section 50-110, as amended by Section 2, Chapter 53, O.S.L. 2023 (11 O.S. Supp. 2023, Section 50-110), is amended to read as follows:

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

At the option of the participating municipality, the participating municipality may pay all or any part of the member's required contribution. The sums contributed shall be paid online to the System as provided in this article within ten (10) days

1 following the payroll period on which the contributions are based.
2 Amounts deducted from the salary of a member and not paid to the
3 System after thirty (30) days from each ending payroll date shall be
4 subject to a monthly late charge of ~~one and one half percent (1~~
5 ~~1/2%)~~ five percent (5%) of the unpaid balance to be paid by the
6 municipality to the System. All funds received by a participating
7 municipality for police retirement purposes shall be forwarded to
8 the State Board for credit to the Fund.

9 B. Each municipality shall pick up under the provisions of
10 Section 414(h)(2) of the Internal Revenue Code of 1986 and pay the
11 contribution which the member is required by law to make to the
12 System for all compensation earned after December 31, 1988.
13 Although the contributions so picked up are designated as member
14 contributions, such contributions shall be treated as contributions
15 being paid by the municipality in lieu of contributions by the
16 member in determining tax treatment under the Internal Revenue Code
17 of 1986 and such picked up contributions shall not be includable in
18 the gross income of the member until such amounts are distributed or
19 made available to the member or the beneficiary of the member. The
20 member, by the terms of this System, shall not have any option to
21 choose to receive the contributions so picked up directly and the
22 picked up contributions must be paid by the municipality to the
23 System.

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1 Member contributions which are picked up shall be treated in the
2 same manner and to the same extent as member contributions made
3 prior to the date on which member contributions were picked up by
4 the municipality. Member contributions so picked up shall be
5 included in gross salary for purposes of determining benefits and
6 contributions under the System.

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

10 SECTION 2. AMENDATORY 11 O.S. 2021, Section 50-114, as
11 last amended by Section 5, Chapter 151, O.S.L. 2023 (11 O.S. Supp.
12 2023, Section 50-114), is amended to read as follows:

13 Section 50-114. A. The State Board is hereby authorized to pay
14 out of funds in the System a monthly service pension to any member
15 eligible as hereinafter provided, not exceeding in any event the
16 amount of money in such funds and not exceeding in any event the
17 accrued retirement benefit for such member, except as provided for
18 herein. In order for a member to be eligible for such service
19 pension the following requirements must be complied with:

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

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

3 3. The member must have complied with any agreement as to
4 contributions by the member and other members to any funds of the
5 System where said agreement has been made as provided by this
6 article; provided, that should a retired member receive disability
7 benefits as provided in this and other sections of this article, the
8 time the retired member is receiving disability benefits shall count
9 as time on active service if the retired member should be recalled
10 by the Chief of Police from disability retirement. It shall be
11 necessary before such time shall be counted toward retirement that
12 the retired member make the same contribution as the member would
13 have otherwise made if on active service for the time the retired
14 member was disabled.

15 B. Any member complying with all requirements of this article,
16 who reaches normal retirement date, upon application, shall be
17 retired at the accrued retirement benefit. When a member has served
18 for the necessary number of years and is otherwise eligible, as
19 provided in this article, if such member is discharged without cause
20 by the participating municipality, the member shall be eligible for
21 a pension.

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

1 1. The calendar year in which the member reaches seventy and
2 one-half (70 1/2) years of age for a member who attains age seventy
3 and one-half (70 1/2) before January 1, 2020, or effective for
4 distributions required to be made after December 31, 2019, but
5 before January 1, 2023, the calendar year in which the member
6 reaches seventy-two (72) years of age for an individual who attains
7 age seventy and one-half (70 1/2) after December 31, 2019, or
8 effective for distributions required to be made after December 31,
9 2022, the calendar year in which the member reaches seventy-three
10 (73) years of age for an individual who attains age seventy-two (72)
11 after December 31, 2022, or "the applicable age" as defined in
12 Section 401(a)(9)(C)(v) of the Internal Revenue Code of 1986, as
13 amended, if later; or

14 2. The actual retirement date of the member.

15 For distributions made for calendar years beginning on or after
16 January 1, 2001, through December 31, 2004, the System shall apply
17 the minimum distribution requirements and incidental benefit
18 requirements of Section 401(a)(9) of the Internal Revenue Code of
19 1986, as amended, in accordance with the regulations under Section
20 401(a)(9) of the Internal Revenue Code of 1986, as amended, which
21 were proposed on January 17, 2001, notwithstanding any provision of
22 the System to the contrary. For distributions made for calendar
23 years beginning on or after January 1, 2005, the System shall apply
24 the minimum distribution incidental benefit requirements, incidental

1 benefit requirements, and minimum distribution requirements of
2 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
3 in accordance with the final regulations under Section 401(a)(9) of
4 the Internal Revenue Code of 1986, as amended, including Treasury
5 Regulations Sections 1.401(a)(9)-1 through 1.401(a)(9)-9; provided,
6 however, that for distributions required to be made after December
7 31, 2019, for individuals who attain seventy and one-half (70 1/2)
8 years of age after December 31, 2019, but before January 1, 2023,
9 such distributions shall take into account that age 70 1/2 was
10 stricken and age 72 was inserted in Section 401(a)(9)(B)(iv)(I),
11 Section 401(a)(9)(C)(i)(I) and Section 401(a)(9)(C)(ii)(I) of the
12 Internal Revenue Code of 1986, as amended, and, provided further,
13 that for individuals who attain seventy-two (72) years of age after
14 December 31, 2022, such distributions shall take into account that
15 "age 72" was stricken and "the applicable age", as defined in
16 Section 401(a)(9)(C)(v) of the Internal Revenue Code of 1986, as
17 amended, was inserted in Section 401(a)(9)(B)(iv)(I) of the Internal
18 Revenue Code of 1986, as amended (applicable to calendar year 2023),
19 Section 401(a)(9)(C)(i)(I) and Section 401(a)(9)(C)(ii)(I) of the
20 Internal Revenue Code of 1986, as amended, and that further revision
21 of Section 401(a)(9)(B)(iv) of the Internal Revenue Code of 1986, as
22 amended, effective for calendar years after 2023 with respect to
23 certain distributions shall be taken into account in all cases
24 notwithstanding any provision of the System to the contrary.

1 Effective January 1, 2009, with respect to the Oklahoma Police
2 Deferred Option Plan, to the extent applicable, no minimum
3 distribution is required for 2009 in accordance with Section
4 401(a)(9)(H) of the Internal Revenue Code of 1986, as amended.

5 Effective September 8, 2009, notwithstanding anything to the
6 contrary of the System, the System, which is a governmental plan
7 (within the meaning of Section 414(d) of the Internal Revenue Code
8 of 1986, as amended) is treated as having complied with Section
9 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all
10 years to which Section 401(a)(9) of the Internal Revenue Code of
11 1986, as amended, applies to the System if the System complies with
12 a reasonable and good-faith interpretation of Section 401(a)(9) of
13 the Internal Revenue Code of 1986, as amended.

14 D. In the event of the death of any member who has been awarded
15 a retirement benefit or is eligible therefor as provided in this
16 section, such member's beneficiaries shall be paid such retirement
17 benefit. The remaining portion of the member's retirement benefit
18 shall be distributed to the beneficiaries at least as rapidly as
19 under the method of distribution to the member. Effective March 1,
20 1997, if a member to whom a retirement benefit has been awarded or
21 who is eligible therefor dies prior to the date as of which the
22 total amount of retirement benefit paid equals the total amount of
23 the employee contributions paid by or on behalf of the member and
24 the member does not have a surviving beneficiary under paragraph 13

1 of Section 50-101 of this title, the total benefits paid as of the
2 date of the member's death shall be subtracted from the accumulated
3 employee contribution amount and the balance, if greater than zero
4 (0), shall be paid to the member's estate.

5 E. The State Board may review and affirm a member's request for
6 retirement benefits prior to the member's normal retirement date
7 provided that no retirement benefits are paid prior to the normal
8 retirement date.

9 F. A member retired under the provisions of this article may
10 apply to the State Board to have the member's retirement benefits
11 set aside and may make application for disability benefits. Upon
12 approval of the disability benefits, the member would become subject
13 to all provisions of this article pertaining to disability
14 retirement.

15 G. Upon the death of a retired member, the benefit payment for
16 the month in which the retired member died, if not previously paid,
17 shall be made to the beneficiary of the member, which shall include
18 a successor in interest for whom an affidavit is provided to the
19 System in accordance with Section 393 of Title 58 of the Oklahoma
20 Statutes, or if there is no surviving beneficiary under paragraph 13
21 of Section 50-101 of this title, to the member's estate or, if
22 properly designated by the member, a trust. Upon the death of a
23 beneficiary, the benefit payment for the month in which the
24 beneficiary died, if not previously paid, shall be made to the

1 beneficiary's estate or, if properly designated by the beneficiary,
2 to a trust. Such benefit payment shall be made in an amount equal
3 to a full monthly benefit payment regardless of the day of the month
4 in which the retired member or beneficiary died.

5 H. If the requirements of Section 50-114.4 of this title are
6 satisfied, a member who, by reason of attainment of normal
7 retirement date or age, is separated from service as a public safety
8 officer with the member's participating municipality, may elect to
9 have payment made directly to the provider for qualified health
10 insurance premiums by deduction from his or her monthly pension
11 payment, after December 31, 2006, in accordance with Section 402(1)
12 of the Internal Revenue Code of 1986, as amended. For distributions
13 made after December 29, 2022, the election provided for under
14 Section 402(1) of the Internal Revenue Code of 1986, as amended, may
15 be made whether payment of the premiums is made directly to the
16 provider of the accident or health plan or qualified long-term care
17 insurance contract by deduction from a distribution from the System
18 or is made to the member.

19 SECTION 3. It being immediately necessary for the preservation
20 of the public peace, health or safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.

23 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
24 April 2, 2024 - DO PASS