

## STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3858

By: Ford

AS INTRODUCED

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

1 required contribution. The sums contributed shall be paid online to  
2 the System as provided in this article within ten (10) days  
3 following the payroll period on which the contributions are based.  
4 Amounts deducted from the salary of a member and not paid to the  
5 System after thirty (30) days from each ending payroll date shall be  
6 subject to a monthly late charge of ~~one and one-half percent (1~~  
7 ~~1/2%)~~ five percent (5%) of the unpaid balance to be paid by the  
8 municipality to the System. All funds received by a participating  
9 municipality for police retirement purposes shall be forwarded to  
10 the State Board for credit to the Fund.

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

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

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

12 SECTION 2. AMENDATORY 11 O.S. 2021, Section 50-114, as  
13 last amended by Section 5, Chapter 151, O.S.L. 2023 (11 O.S. Supp.  
14 2023, Section 50-114), is amended to read as follows:

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

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

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

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

17 B. Any member complying with all requirements of this article,  
18 who reaches normal retirement date, upon application, shall be  
19 retired at the accrued retirement benefit. When a member has served  
20 for the necessary number of years and is otherwise eligible, as  
21 provided in this article, if such member is discharged without cause  
22 by the participating municipality, the member shall be eligible for  
23 a pension.  
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1 C. Effective July 1, 1989, in no event shall commencement of  
2 distribution of the accrued retirement benefit of a member be  
3 delayed beyond April 1 of the calendar year following the later of:

4 1. The calendar year in which the member reaches seventy and  
5 one-half (70 1/2) years of age for a member who attains age seventy  
6 and one-half (70 1/2) before January 1, 2020, or effective for  
7 distributions required to be made after December 31, 2019, but  
8 before January 1, 2023, the calendar year in which the member  
9 reaches seventy-two (72) years of age for an individual who attains  
10 age seventy and one-half (70 1/2) after December 31, 2019, or  
11 effective for distributions required to be made after December 31,  
12 2022, the calendar year in which the member reaches seventy-three  
13 (73) years of age for an individual who attains age seventy-two (72)  
14 after December 31, 2022, or "the applicable age" as defined in  
15 Section 401(a)(9)(C)(v) of the Internal Revenue Code of 1986, as  
16 amended, if later; 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, including Treasury  
8 Regulations Sections 1.401(a)(9)-1 through 1.401(a)(9)-9; provided,  
9 however, that for distributions required to be made after December  
10 31, 2019, for individuals who attain seventy and one-half (70 1/2)  
11 years of age after December 31, 2019, but before January 1, 2023,  
12 such distributions shall take into account that age 70 1/2 was  
13 stricken and age 72 was inserted in Section 401(a)(9)(B)(iv)(I),  
14 Section 401(a)(9)(C)(i)(I) and Section 401(a)(9)(C)(ii)(I) of the  
15 Internal Revenue Code of 1986, as amended, and, provided further,  
16 that for individuals who attain seventy-two (72) years of age after  
17 December 31, 2022, such distributions shall take into account that  
18 "age 72" was stricken and "the applicable age", as defined in  
19 Section 401(a)(9)(C)(v) of the Internal Revenue Code of 1986, as  
20 amended, was inserted in Section 401(a)(9)(B)(iv)(I) of the Internal  
21 Revenue Code of 1986, as amended (applicable to calendar year 2023),  
22 Section 401(a)(9)(C)(i)(I) and Section 401(a)(9)(C)(ii)(I) of the  
23 Internal Revenue Code of 1986, as amended, and that further revision  
24 of Section 401(a)(9)(B)(iv) of the Internal Revenue Code of 1986, as

1 amended, effective for calendar years after 2023 with respect to  
2 certain distributions shall be taken into account in all cases  
3 notwithstanding any provision of the System to the contrary.  
4 Effective January 1, 2009, with respect to the Oklahoma Police  
5 Deferred Option Plan, to the extent applicable, no minimum  
6 distribution is required for 2009 in accordance with Section  
7 401(a)(9)(H) of the Internal Revenue Code of 1986, as amended.

8       Effective September 8, 2009, notwithstanding anything to the  
9 contrary of the System, the System, which is a governmental plan  
10 (within the meaning of Section 414(d) of the Internal Revenue Code  
11 of 1986, as amended) is treated as having complied with Section  
12 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all  
13 years to which Section 401(a)(9) of the Internal Revenue Code of  
14 1986, as amended, applies to the System if the System complies with  
15 a reasonable and good-faith interpretation of Section 401(a)(9) of  
16 the Internal Revenue Code of 1986, as amended.

17       D. In the event of the death of any member who has been awarded  
18 a retirement benefit or is eligible therefor as provided in this  
19 section, such member's beneficiaries shall be paid such retirement  
20 benefit. The remaining portion of the member's retirement benefit  
21 shall be distributed to the beneficiaries at least as rapidly as  
22 under the method of distribution to the member. Effective March 1,  
23 1997, if a member to whom a retirement benefit has been awarded or  
24 who is eligible therefor dies prior to the date as of which the  
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1 total amount of retirement benefit paid equals the total amount of  
2 the employee contributions paid by or on behalf of the member and  
3 the member does not have a surviving beneficiary under paragraph 13  
4 of Section 50-101 of this title, the total benefits paid as of the  
5 date of the member's death shall be subtracted from the accumulated  
6 employee contribution amount and the balance, if greater than zero  
7 (0), shall be paid to the member's estate.

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

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

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



1 properly designated by the member, a trust. Upon the death of a  
2 beneficiary, the benefit payment for the month in which the  
3 beneficiary died, if not previously paid, shall be made to the  
4 beneficiary's estate or, if properly designated by the beneficiary,  
5 to a trust. Such benefit payment shall be made in an amount equal  
6 to a full monthly benefit payment regardless of the day of the month  
7 in which the retired member or beneficiary died.

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

22 SECTION 3. It being immediately necessary for the preservation  
23 of the public peace, health or safety, an emergency is hereby  
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1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.  
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January 11, 2024

Representative Ford  
Room 300.2

Re: RBH No. 9679

RBH No. 9679 provides for a late fee of 5% per month of monies due the Oklahoma Police Pension and Retirement System to be paid by the municipality.

RBH No. 9679 is a non fiscal 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