

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)
3RD CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2098

By: Roberts of the House

and

Fisher of the Senate

3RD CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Police Pension and Retirement System; amending 11 O.S. 1991, Section 50-101, as last amended by Section 3 of Enrolled Senate Bill No. 773 of the 2nd Session of the 44th Oklahoma Legislature, 50-112, as amended by Section 4, Chapter 390, O.S.L. 1992, 50-115 and 50-117, as amended by Section 4 of Enrolled Senate Bill No. 773 of the 2nd Session of the 44th Oklahoma Legislature (11 O.S. Supp. 1993, Section 50-112), which relate to administration of the Oklahoma Police Pension and Retirement System; modifying definition; adding definition; modifying provisions with respect to certain examination; prescribing requirements related thereto; providing for offset in disability benefits based upon pre-existing conditions; deleting restriction upon payment of benefits after remarriage; 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. 1991, Section 50-101, as last amended by Section 3 of Enrolled Senate Bill No. 773 of the 2nd Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 50-101. As used in this article:

1. "System" means the Oklahoma Police Pension and Retirement System and all predecessor municipal Police Pension and Retirement Systems;
2. "Article" means Article 50 of this title;
3. "State Board" means the Oklahoma Police Pension and Retirement Board;
4. "Local board" means the local police pension and retirement boards;

5. "Fund" means the Oklahoma Police Pension and Retirement Fund;

6. "Officer" means any person hired by a participating municipality to be a police officer who is undergoing police training or is a duly appointed and sworn full-time officer of the regular police department of ~~a~~ the municipality whose duties are to preserve the public peace, protect life and property, prevent crime, serve warrants, enforce all laws and municipal ordinances of this state, and any political subdivision thereof, and who is authorized to bear arms in the execution of such duties; provided, that the inclusion of any person hired by a participating municipality to be a police officer who is undergoing police training within the definition of "officer" contained in this paragraph shall apply only for the purpose of the Oklahoma Police Pension and Retirement System and shall not be applicable for purposes of any other provision of law including Section 51-102 of this title;

7. "Member" means all eligible officers of a participating municipality;

8. "Normal retirement date" means the date at which the member is eligible to receive the unreduced payments of the member's accrued retirement benefit. Such date shall be the first day of the month coinciding with or following the date the member completes twenty (20) years of credited service. If the member's employment continues past the normal retirement date of the member, the actual retirement date of the member shall be the first day of the month after the member terminates employment with more than twenty (20) years of credited service;

9. "Credited service" means the period of service used to determine the eligibility for and the amount of benefits payable to a member. Credited service shall consist of the period during which the member participated in the System or the predecessor municipal systems as an active employee in an eligible membership classification, plus any service prior to the establishment of the predecessor municipal systems which was credited under the

predecessor municipal systems or credited service granted by the State Board;

10. "Participating municipality" means a municipality which is making contributions to the System on behalf of its officers;

11. "Permanent total disability" means incapacity due to accidental injury or occupational disease, to earn any wages in the employment for which the member is physically suited and reasonably fitted through education, training or experience. Further, the member must be declared one hundred percent (100%) impaired as defined by the "American Medical Association's Guides to the Evaluation of Permanent Impairment" on the basis of a physical medical examination by a physician licensed to practice medicine in this state, as selected by the State Board;

12. "Permanent partial disability" means permanent disability which is less than permanent total disability as defined in this section. The member officer must be declared no greater than ninety-nine percent (99%) impaired as defined by the "American Medical Association's Guides to the Evaluation of Permanent Impairment" on the basis of a physical medical examination by a physician licensed to practice medicine in this state, as selected by the State Board;

13. "Beneficiary" means a member's surviving spouse, child or children at the time of the member's death. The surviving spouse must have been married to the member for the thirty (30) continuous months immediately preceding the member's death, provided a surviving spouse of a member who died while in, and as a consequence of, the performance of the member's duty for a participating municipality, shall not be subject to the thirty-month marriage requirement for survivor benefits. A surviving child of a member shall be a beneficiary until reaching eighteen (18) years of age or twenty-two (22) years of age if the child is enrolled full time and regularly attending a public or private school or any institution of higher education. Children adopted by the member after the member's retirement are not beneficiaries. This definition of beneficiary shall be in addition to any other requirement set forth in this article;

14. "Executive Director" means the managing officer of the System employed by the State Board;

15. "Eligible employer" means any municipality with a municipal police department;

16. "Entry date" means the date as of which an eligible employer joins the System. The first entry date pursuant to this article shall be January 1, 1981;

17. "Final average salary" means the average paid gross salary of the officer for normally scheduled hours over the highest salaried thirty (30) consecutive months of the last sixty (60) months of credited service.

Gross salary shall not include payment for accumulated sick and annual leave upon termination of employment or any uniform allowances. Provided, for purposes of determining the normal disability benefit, final average salary shall be based on the member's total service if less than thirty (30) months. Gross salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986 and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986. Only salary on which required contributions have been made may be used in computing the final average salary;

18. "Accrued retirement benefit" means two and one-half percent (2 1/2%) of the member's final average salary multiplied by the member's years of credited service not to exceed thirty (30) years;

19. "Normal disability benefit" means two and one-half percent (2 1/2%) of the member's final average salary multiplied by twenty (20) years; ~~and~~

20. "Limitation year" means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, which year shall be the calendar year; and

21. "Paid base salary" means compensation that shall include longevity, educational allowances, normal compensation paid on a normal pay period without regard to overtime, holidays, annual leave or sick leave. This shall exclude any incremental increases

due to reimbursement or payment of benefits or other allowances including but not limited to insurance premium reimbursements.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 50-112, as amended by Section 4, Chapter 390, O.S.L. 1992 (11 O.S. Supp. 1993, Section 50-112), is amended to read as follows:

Section 50-112. A. All persons ~~who shall be offered a position of an officer~~ employed as officers shall participate in the System upon ~~the person meeting the requisite post offer pre-employment physical examination standards~~ initial employment with a police department of a participating municipality. ~~All such persons shall be of good moral character, free from deformities, mental or physical conditions, or disease and alcohol or drug addiction, which would prohibit the person from performing the duties of a police officer. Said physical-medical examination shall pertain to age,~~ All such persons shall submit to a physical-medical examination pertaining to sight, hearing, agility and other conditions the requirements of which shall be established by the State Board. The person shall be required to complete this physical-medical examination prior to the beginning of actual employment. This examination shall identify any pre-existing conditions. A police officer shall be not less than twenty-one (21) ~~nor more than forty-five (45)~~ years of age when accepted for membership in the System. ~~The person shall be required to meet the conditions of this section prior to the beginning of actual employment but after an offer of employment has been tendered with any participating municipality.~~ The State Board shall have authority to deny or revoke membership of any person submitting false information in such person's membership application. The State Board shall have final authority in determining eligibility for membership in the System, pursuant to the provisions of this article.

B. The police chief of any participating municipality may be exempt from membership in the System or may become a member provided the requirements of this section are met at the time of employment.

SECTION 3. AMENDATORY 11 O.S. 1991, Section 50-115, is amended to read as follows:

Section 50-115. A. The State Board is authorized to pay a disability benefit to a member of the System or a pension to the beneficiaries of such member eligible as hereinafter provided, not exceeding the accrued retirement benefit of the member, except as otherwise provided in this article. Such disability benefit shall be payable immediately upon determination of eligibility. Any pre-existing condition identified at the time of initial or subsequent membership shall be used to offset the percentage of impairment to the whole person in determining any disability benefit.

B. In order for any member to be eligible for any disability benefit, or the member's beneficiaries to be eligible for a pension, the member must have complied with any agreement as to contributions by the member and other members to any funds of the System where said agreement has been made as provided by this article; and the State Board must find:

1. That the member incurred a permanent total disability or a permanent partial disability or died while in, and in consequence of, the performance of duty as an officer; or

2. That such member has served ten (10) years and incurred a permanent total disability or a permanent partial disability or has died from any cause.

C. In the event of the death of any member who has been awarded a disability benefit or is eligible therefor as provided in this article, the member's beneficiary shall be paid the benefit.

1. Upon determination by the State Board that a member is physically or mentally disabled and that the disability is permanent and total and was incurred while in, and in consequence of, the performance of duty as an officer, the member shall be awarded the normal disability benefit.

2. Upon determination by the State Board that a member is physically or mentally disabled and that the disability is permanent and partial and was incurred while in, and in

consequence of, the performance of duty as an officer, the member shall be awarded a disability benefit on the basis of the percentage of impairment to the whole person, as defined by the most current standards of the impairment as outlined in the "American Medical Association's Guides to the Evaluation of Permanent Impairment", as provided in the following table:

1% to 24% impairment to whole person = 25% of the normal disability benefit

25% to 49% impairment to whole person = 50% of the normal disability benefit

50% to 74% impairment to whole person = 75% of the normal disability benefit

75% to 99% impairment to whole person = 90% of the normal disability benefit.

Pursuant only to permanent partial disability incurred while in, and in consequence of, the performance of duty as an officer, if the participating municipality denies a disabled member the option of continuing employment instead of retiring under the above provisions, then the burden of proof rests with the participating municipality to show cause to the State Board that there is no position as a sworn officer within the police department of that municipality which the member can fill.

3. Upon determination by the State Board that a member is physically or mentally disabled and that the disability is permanent and total and that the member has completed ten (10) years of credited service and is disabled by any cause, the member shall receive a disability benefit on the basis of the member's accrued retirement benefit.

4. Upon determination by the State Board that a member is physically or mentally disabled and that the disability is permanent and partial and that the member has completed ten (10) years of credited service as a member and is disabled from any cause, the member shall be awarded a disability benefit on the basis of the member's years of credited service as a member and the percentage of impairment to the whole person, as defined by the most current standards of the impairment as outlined in the

"American Medical Association's Guides to the Evaluation of Permanent Impairment", on the basis of the following table:

1% to 24% impaired = 25% of accrued retirement benefit
25% to 49% impaired = 50% of accrued retirement benefit
50% to 74% impaired = 75% of accrued retirement benefit
75% to 99% impaired = 90% of accrued retirement benefit.

5. Upon determination by the State Board that a member has completed ten (10) years of credited service and dies from any cause, the member's beneficiary shall receive the member's accrued retirement benefit.

D. Before making a finding as to the disability of a member, the State Board shall require that, if the member is able, the member shall make a certificate as to the disability which shall be subscribed and sworn to by the member. It shall also require a certificate as to such disability to be made by some physician licensed to practice in this state as selected by the State Board. The State Board may require other evidence of disability before making the disability benefit. The salary of any such member shall continue while the member is so necessarily confined to such hospital bed or home and necessarily requires medical care or professional nursing on account of such sickness or disability for a period of not more than six (6) months, after which said period the other provisions of this article may apply. The State Board, in making disability benefits, shall act upon the written request of the member or without such request, if it deem it for the good of the police department. Any disability benefits shall cease when the member receiving same shall be restored to active service at a salary not less than three-fourths (3/4) of the member's average monthly salary.

SECTION 4. AMENDATORY 11 O.S. 1991, Section 50-117, as amended by Section 4 of Enrolled Senate Bill No. 773 of the 2nd Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 50-117. The State Board is authorized to pay a pension to the beneficiary of any member where requirements for eligibility for such pension are met as in this section provided.

The pension shall be in an amount as the State Board shall provide not exceeding the accrued retirement benefit or normal disability benefit. Before any beneficiary of a member shall be entitled to any pension the member must have complied with any agreement as to contributions by the member and other members to the System where said agreement has been made as provided by this article, and the State Board must find that:

1. The member lost his or her life while in, and in consequence of, the performance of the member's duty and through no negligence on the member's part; and

2. That the member left a beneficiary.

If such finding is made, a pension shall be allowed, limited as provided in this article. The pension shall commence to the beneficiary of the member within one (1) year of the death of the member and, except as otherwise provided in this section, shall be payable over the life of the beneficiary. ~~If the beneficiary is the spouse of the member, the pension payments shall cease automatically when the spouse remarries.~~ If the beneficiary is a child of the member, the pension payments shall cease automatically when the child reaches eighteen (18) years of age or twenty-two (22) years of age if the child is enrolled full time and regularly attending a public or private school or any institution of higher education.

SECTION 5. This act shall become effective July 1, 1994.

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

44-2-L9886 MAH