

CS for SB 510

THE STATE SENATE  
Tuesday, February 27, 2001

Committee Substitute for  
Senate Bill No. 510

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 510 - By: HELTON of the Senate and NANCE of the House.

[ retirement - Oklahoma Police Pension and Retirement System  
- deleting permanent partial and permanent total disability  
- providing permanent in line disability - providing  
exception - codification - effective date -  
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 1, Chapter 307, O.S.L. 2000 (11 O.S. Supp. 2000, Section 50-101), 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;

1       6. "Officer" means any duly appointed and sworn full-time  
2 officer of the regular police department of a municipality whose  
3 duties are to preserve the public peace, protect life and property,  
4 prevent crime, serve warrants, enforce all laws and municipal  
5 ordinances of this state, and any political subdivision thereof, and  
6 who is authorized to bear arms in the execution of such duties;

7       7. "Member" means all eligible officers of a participating  
8 municipality and any person hired by a participating municipality  
9 who is undergoing police training to become a permanent police  
10 officer of the municipality. A member does not include a "leased  
11 employee" as defined under Section 414(n)(2) of the Internal Revenue  
12 Code of 1986. Any individual who agrees with the State Board that  
13 the individual's services are to be performed as a leased employee  
14 or an independent contractor shall not be a member regardless of any  
15 classification as a common law employee by the Internal Revenue  
16 Service or any other governmental agency, or any court of competent  
17 jurisdiction. A member shall include members of the Oklahoma State  
18 Bureau of Narcotics and Dangerous Drugs Control who elect to  
19 participate in the System pursuant to Section 2 of this act;

20       8. "Normal retirement date" means the date at which the member  
21 is eligible to receive the unreduced payments of the member's  
22 accrued retirement benefit. Such date shall be the first day of the  
23 month coinciding with or following the date the member completes

1 twenty (20) years of credited service. If the member's employment  
2 continues past the normal retirement date of the member, the actual  
3 retirement date of the member shall be the first day of the month  
4 after the member terminates employment with more than twenty (20)  
5 years of credited service;

6 9. "Credited service" means the period of service used to  
7 determine the eligibility for and the amount of benefits payable to  
8 a member. Credited service shall consist of the period during which  
9 the member participated in the System or the predecessor municipal  
10 systems as an active employee in an eligible membership  
11 classification, plus any service prior to the establishment of the  
12 predecessor municipal systems which was credited under the  
13 predecessor municipal systems or credited service granted by the  
14 State Board;

15 10. "Participating municipality" means a municipality which is  
16 making contributions to the System on behalf of its officers. The  
17 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall  
18 be treated as a participating municipality only regarding those  
19 members who elect to participate in the System pursuant to Section 2  
20 of this act;

21 11. "Permanent total disability" means incapacity due to  
22 accidental injury or occupational disease, to earn any wages in the  
23 employment for which the member is physically suited and reasonably

1 fitted through education, training or experience. Further, the  
2 member must be declared one hundred percent (100%) impaired as  
3 defined by the "American Medical Association's Guides to the  
4 Evaluation of Permanent Impairment" on the basis of a physical  
5 medical examination by a physician licensed to practice medicine in  
6 this state, as selected by the State Board;

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

14 13. "Permanent In Line Disability" means incapacity to earn any  
15 wages as a certified, commissioned police officer due to accidental  
16 injury or occupational disease, incurred while in, and in  
17 consequence of, the performance of duty as an officer.

18 14. "Beneficiary" means a member's surviving spouse or any  
19 surviving children, including biological and adopted children, at  
20 the time of the member's death. The surviving spouse must have been  
21 married to the member for the thirty (30) continuous months  
22 immediately preceding the member's death, provided a surviving  
23 spouse of a member who died while in, and as a consequence of, the

1 performance of the member's duty for a participating municipality,  
2 shall not be subject to the thirty-month marriage requirement for  
3 survivor benefits. A surviving child of a member shall be a  
4 beneficiary until reaching eighteen (18) years of age or twenty-two  
5 (22) years of age if the child is enrolled full time and regularly  
6 attending a public or private school or any institution of higher  
7 education. Any child adopted by a member after the member's  
8 retirement shall be a beneficiary only if the child is adopted by  
9 the member for the thirty (30) continuous months preceding the  
10 member's death. Any child who is adopted by a member after the  
11 member's retirement and such member dies accidentally or as a  
12 consequence of the performance of the member's duty as a police  
13 officer shall not be subject to the thirty-month adoption  
14 requirement. This definition of beneficiary shall be in addition to  
15 any other requirement set forth in this article;

16 ~~14.~~ 15. "Executive Director" means the managing officer of the  
17 System employed by the State Board;

18 ~~15.~~ 16. "Eligible employer" means any municipality with a  
19 municipal police department;

20 ~~16.~~ 17. "Entry date" means the date as of which an eligible  
21 employer joins the System. The first entry date pursuant to this  
22 article shall be January 1, 1981;

1       ~~17.~~ 18. "Final average salary" means the average paid gross  
2 salary of the member for normally scheduled hours over the highest  
3 salaried thirty (30) consecutive months of the last sixty (60)  
4 months of credited service.

5           a.    Gross salary shall not include payment for accumulated  
6 sick and annual leave upon termination of employment  
7 or any uniform allowances.  Provided, for purposes of  
8 determining the normal disability benefit, final  
9 average salary shall be based on the member's total  
10 service if less than thirty (30) months.  Gross salary  
11 shall include any amount of elective salary reduction  
12 under Section 457 of the Internal Revenue Code of  
13 1986, as amended, and any amount of nonelective salary  
14 reduction under Section 414(h) of the Internal Revenue  
15 Code of 1986, as amended.  Only salary on which  
16 required contributions have been made may be used in  
17 computing the final average salary.

18           b.    In addition to other applicable limitations, and  
19 notwithstanding any other provision to the contrary,  
20 for plan years beginning on or after July 1, 1996, the  
21 annual compensation of each "Noneligible Member" taken  
22 into account under the System shall not exceed the  
23 Omnibus Budget Reconciliation Act of 1993 (OBRA '93)

1 annual compensation limit. The OBRA '93 annual  
2 compensation limit is One Hundred Fifty Thousand  
3 Dollars (\$150,000.00), as adjusted by the Commissioner  
4 for increases in the cost of living in accordance with  
5 Section 401(a)(17)(B) of the Internal Revenue Code of  
6 1986, as amended. The annual compensation limit in  
7 effect for a calendar year applies to any period, not  
8 exceeding twelve (12) months, over which compensation  
9 is determined ("determination period") beginning in  
10 such calendar year. If a determination period  
11 consists of fewer than twelve (12) months, the OBRA  
12 '93 annual compensation limit will be multiplied by a  
13 fraction, the numerator of which is the number of  
14 months in the determination period, and the  
15 denominator of which is twelve (12). For purposes of  
16 this section, a "Noneligible Member" is any member who  
17 first became a member during a plan year commencing on  
18 or after July 1, 1996.

19 c. For plan years beginning on or after July 1, 1996, any  
20 reference in the System to the annual compensation  
21 limit under Section 401(a)(17) of the Internal Revenue  
22 Code of 1986, as amended, shall mean the OBRA '93  
23 annual compensation limit set forth in this provision.

1           d.    If compensation for any prior determination period is  
2                    taken into account in determining a Noneligible  
3                    Member's benefits accruing in the current plan year,  
4                    the compensation for that prior determination period  
5                    is subject to the OBRA '93 annual compensation limit  
6                    in effect for that prior determination period. For  
7                    this purpose, for determination periods beginning  
8                    before the first day of the first plan year beginning  
9                    on or after July 1, 1996, the OBRA '93 annual  
10                   compensation limit is One Hundred Fifty Thousand  
11                   Dollars (\$150,000.00).

12           e.    Effective July 1, 1989, through June 30, 1997, in  
13                    determining the compensation of a member for purposes  
14                    of this limitation, the rules of Section 414(q) (6) of  
15                    the Internal Revenue Code of 1986, as amended, shall  
16                    apply, except in applying such rules, the term  
17                    "family" shall include only the spouse of the member  
18                    and any lineal descendants of the member who have not  
19                    attained age nineteen (19) before the close of the  
20                    year. If, as a result of the application of such  
21                    rules, the adjusted annual compensation limitation is  
22                    exceeded, then the limitation shall be prorated among  
23                    the affected individuals in proportion to each such



1 individual's compensation as determined under this  
2 section prior to the application of this limitation.

3 f. The family member aggregation rules set forth in the  
4 preceding paragraph shall apply only to plan years  
5 beginning prior to July 1, 1997;

6 ~~18.~~ 19. "Accrued retirement benefit" means two and one-half  
7 percent (2 1/2%) of the member's final average salary multiplied by  
8 the member's years of credited service not to exceed thirty (30)  
9 years;

10 ~~19.~~ 20. "Normal disability benefit" means two and one-half  
11 percent (2 1/2%) of the member's final average salary multiplied by  
12 twenty (20) years;

13 ~~20.~~ 21. "Limitation year" means the year used in applying the  
14 limitations of Section 415 of the Internal Revenue Code of 1986, as  
15 amended, which year shall be the calendar year; and

16 ~~21.~~ 22. "Paid base salary" means compensation that shall  
17 include longevity, educational allowances, and normal compensation  
18 paid on a regularly scheduled pay period of which said pay period  
19 shall include holidays, annual leave and sick leave. Paid base  
20 salary shall not include overtime. This shall exclude any  
21 incremental increases due to reimbursement or payment of benefits or  
22 other allowances including but not limited to insurance premium  
23 reimbursements.

1 SECTION 2. AMENDATORY 11 O.S. 1991, Section 50-115, as  
2 last amended by Section 2, Chapter 167, O.S.L. 1999 (11 O.S. Supp.  
3 2000, Section 50-115), is amended to read as follows:

4 Section 50-115. A. The State Board is authorized to pay a  
5 disability benefit to a member of the System or a pension to the  
6 beneficiaries of such member eligible as hereinafter provided, not  
7 exceeding the accrued retirement benefit of the member, except as  
8 otherwise provided in this article. Such disability benefit shall  
9 be payable immediately upon determination of eligibility. Any  
10 preexisting condition identified at the time of any initial or  
11 subsequent membership shall be used to offset the percentage of  
12 impairment to the whole person in determining any disability  
13 benefit. Once the initial disability benefit has been awarded by  
14 the Board on the basis of the percentage of impairment to the whole  
15 person, the member shall have no further recourse to increase the  
16 awarded percentage of impairment.

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

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

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

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

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

15          ~~2. Upon determination by the State Board that a member is~~  
16 ~~physically or mentally disabled and that the disability is permanent~~  
17 ~~and partial and was incurred while in, and in consequence of, the~~  
18 ~~performance of duty as an officer, the member shall be awarded a~~  
19 ~~disability benefit on the basis of the percentage of impairment to~~  
20 ~~the whole person, as defined by the most current standards of the~~  
21 ~~impairment as outlined in the "American Medical Association's Guides~~  
22 ~~to the Evaluation of Permanent Impairment", as provided in the~~  
23 ~~following table:~~

1 ~~1% to 24% impairment to whole person - 25% of the normal~~  
2 ~~disability benefit~~

3 ~~25% to 49% impairment to whole person - 50% of the normal~~  
4 ~~disability benefit~~

5 ~~50% to 74% impairment to whole person - 75% of the normal~~  
6 ~~disability benefit~~

7 ~~75% to 99% impairment to whole person - 90% of the normal~~  
8 ~~disability benefit.~~

9 D. Upon determination by the State Board that a member has  
10 incurred a permanent in line disability as a result of physical or  
11 mental causes, the member shall be awarded the normal disability  
12 benefit.

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

21 ~~3.~~ F. Upon determination by the State Board that a member is  
22 physically or mentally disabled and that the disability is permanent  
23 and total and that the member has completed ten (10) years of

1 credited service and is disabled by any cause, the member shall  
2 receive a disability benefit on the basis of the member's accrued  
3 retirement benefit.

4 ~~4.~~ G. Upon determination by the State Board that a member is  
5 physically or mentally disabled and that the disability is permanent  
6 and partial and that the member has completed ten (10) years of  
7 credited service as a member and is disabled from any cause, the  
8 member shall be awarded a disability benefit on the basis of the  
9 member's years of credited service as a member and the percentage of  
10 impairment to the whole person, as defined by the most current  
11 standards of the impairment as outlined in the "American Medical  
12 Association's Guides to the Evaluation of Permanent Impairment", on  
13 the basis of the following table:

14 1% to 24% impaired = 25% of accrued retirement benefit  
15 25% to 49% impaired = 50% of accrued retirement benefit  
16 50% to 74% impaired = 75% of accrued retirement benefit  
17 75% to 99% impaired = 90% of accrued retirement benefit.

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

22 ~~D.~~ H. Before making a finding as to the disability of a member,  
23 the State Board shall require that, if the member is able, the

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

- 18 I. Any member of a police department of any municipality who:  
19 1. Has been exposed to hazardous substances in the performance  
20 of the officer's duties; and  
21 2. Is later disabled from one or more of the following causes,  
22 that was not revealed by the physical examination passed by the  
23 member upon entry into the department:

1           a. disease to any organ,  
2           b. injury to the respiratory system, or  
3           c. the existence of any cancer,  
4 shall be presumed to have incurred such disability while performing  
5 the officer's duties unless the contrary is shown by competent  
6 evidence.

7           SECTION 3.       NEW LAW       A new section of law to be codified  
8 in the Oklahoma Statutes as Section 50-136.5 of Title 11, unless  
9 there is created a duplication in numbering, reads as follows:

10          A. Any person receiving benefits from the Oklahoma Police  
11 Pension and Retirement System as of June 30, 2000, who continues to  
12 receive such benefits on or after July 1, 2001, shall receive a five  
13 percent (5.0%) increase in said benefits beginning July of 2001.

14          B. Any increase in benefits a person is eligible to receive  
15 pursuant to repealed Section 50-120 of Title 11 of the Oklahoma  
16 Statutes, after June 30, 2000, shall be offset by the increase in  
17 benefits, if any, provided by this section.

18          SECTION 4. This act shall become effective July 1, 2001.

19          SECTION 5. It being immediately necessary for the preservation  
20 of the public peace, health and 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 APPROPRIATIONS, dated 2-21-01 - DO  
24 PASS, As Amended and Coauthored.