

SENATE FLOOR VERSION

February 24, 2020

AS AMENDED

SENATE BILL NO. 1668

By: Rosino of the Senate

and

Lepak of the House

**[Oklahoma Police Pension and Retirement System -
definitions - paid base salary]**

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 50-101, as amended by Section 1, Chapter 346, O.S.L. 2016 (11 O.S. Supp. 2019, 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. "Fund" means the Oklahoma Police Pension and Retirement Fund;

1 5. "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 6. "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. Effective July 1, 1987, a member does
11 not include a "leased employee" as defined under Section 414(n)(2)
12 of the Internal Revenue Code of 1986, as amended. Effective July 1,
13 1999, any individual who agrees with the participating municipality
14 that the individual's services are to be performed as a leased
15 employee or an independent contractor shall not be a member
16 regardless of any classification as a common law employee by the
17 Internal Revenue Service or any other governmental agency, or any
18 court of competent jurisdiction. A member shall include eligible
19 commissioned officers of the Oklahoma State Bureau of Narcotics and
20 Dangerous Drugs Control, the Oklahoma State Bureau of Investigation,
21 and the Alcoholic Beverage Laws Enforcement Commission who elect to
22 participate in the System pursuant to Section 50-111.5 of this
23 title;

24

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

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

19 9. "Participating municipality" means a municipality which is
20 making contributions to the System on behalf of its officers. The
21 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the
22 Oklahoma State Bureau of Investigation, and the Alcoholic Beverage
23 Laws Enforcement Commission shall be treated in the same manner as a
24 participating municipality only regarding those members who elect to

1 participate in the System pursuant to Section 50-111.5 of this
2 title;

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

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

19 12. "Permanent in-line disability" means incapacity to earn any
20 wages as a certified, commissioned police officer due to accidental
21 injury or occupational disease, incurred while in, and in
22 consequence of, the performance of duty as an officer;

23 13. "Beneficiary" means a member's surviving spouse or any
24 surviving children, including biological and adopted children, at

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

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

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

24

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

4 17. "Final average salary" means the average paid base salary
5 of the member for normally scheduled hours over the highest salaried
6 thirty (30) consecutive months of the last sixty (60) months of
7 credited service. Effective July 1, 2016, the following shall apply
8 in computing final average salary:

- 9 a. only paid base salary on which required contributions
10 have been made shall be used in computing a member's
11 final average salary,
- 12 b. for purposes of determining the normal disability
13 benefit only, final average salary shall be based on
14 the member's total service if less than thirty (30)
15 months,
- 16 c. in addition to other applicable limitations, and
17 notwithstanding any other provision to the contrary,
18 for plan years beginning on or after July 1, 2002, the
19 annual compensation of each "Noneligible Member" taken
20 into account under the System shall not exceed the
21 Economic Growth and Tax Relief Reconciliation Act of
22 2001 (EGTRRA) annual compensation limit. The EGTRRA
23 annual compensation limit is Two Hundred Thousand
24 Dollars (\$200,000.00), as adjusted by the Commissioner

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

16 d. for plan years beginning on or after July 1, 2002, any
17 reference in the System to the annual compensation
18 limit under Section 401(a)(17) of the Internal Revenue
19 Code of 1986, as amended, shall mean the EGTRRA annual
20 compensation limit set forth in this provision, and

21 e. effective January 1, 2008, back pay, within the
22 meaning of Section 1.415(c)-2(g)(8) of the Income Tax
23 Regulations, shall be treated as paid base salary for
24 the limitation year to which the back pay relates to

1 the extent the back pay represents wages and
2 compensation that would otherwise be included in this
3 definition;

4 18. "Accrued retirement benefit" means two and one-half percent
5 (2 1/2%) of the member's final average salary multiplied by the
6 member's years of credited service not to exceed thirty (30) years;

7 19. "Normal disability benefit" means two and one-half percent
8 (2 1/2%) of the member's final average salary multiplied by twenty
9 (20) years;

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

13 21. "Paid base salary" means, ~~effective July 1, 2016, any~~
14 ~~compensation described in subparagraph a of this paragraph that is~~
15 ~~not described in subparagraph b of this paragraph.~~

16 ~~a. Paid base salary shall include only:~~

17 ~~(1) normal compensation paid on a regularly scheduled~~
18 ~~pay period, including, but not limited to,~~
19 ~~regular pay for holidays, paid time off, vacation~~
20 ~~or annual leave, sick leave or compensatory time~~
21 ~~in lieu of overtime, any lump sum payment paid in~~
22 ~~lieu of a normal wage increase, provided such~~
23 ~~lump sum payment is retroactively applied over~~
24 ~~the prior twelve-month period ending with the~~

1 ~~payment date, compensation for bomb squad pay,~~
2 ~~education pay, incentive pay, K-9 pay,~~
3 ~~negotiation pay, shift differential, sniper pay,~~
4 ~~SWAT team pay, emergency response team pay, any~~
5 ~~other special unit pay, and any incremental~~
6 ~~increase in compensation which is not included by~~
7 ~~the employer in a member's regular base pay for~~
8 ~~salary increase purposes but is paid by the~~
9 ~~employer to the member for group health benefits~~
10 ~~based on an arrangement with a participating~~
11 ~~municipality that was in place on December 31,~~
12 ~~2015, so long as the arrangement continues~~
13 ~~uninterrupted for a member employed by a~~
14 ~~participating municipality on June 30, 2016, who~~
15 ~~has not since terminated employment and been~~
16 ~~rehired by such participating municipality,~~
17 ~~(2) any amount of elective salary reduction under~~
18 ~~Section 125 of the Internal Revenue Code of 1986,~~
19 ~~as amended, that would have been treated as paid~~
20 ~~base salary but for the salary deferral reduction~~
21 ~~agreement,~~
22 ~~(3) any amount of elective salary reduction not~~
23 ~~includable in the gross income of the member~~
24 ~~under Section 132(f)(4) of the Internal Revenue~~

1 ~~Code of 1986, as amended, that would have been~~
2 ~~treated as paid base salary but for the salary~~
3 ~~deferral reduction agreement,~~

4 ~~(4) any amount of elective salary reduction under~~
5 ~~Section 457 of the Internal Revenue Code of 1986,~~
6 ~~as amended, that would have been treated as paid~~
7 ~~base salary but for the salary deferral reduction~~
8 ~~agreement,~~

9 ~~(5) any amount of elective salary reduction under~~
10 ~~Section 401(k) of the Internal Revenue Code of~~
11 ~~1986, as amended, that would have been treated as~~
12 ~~paid base salary but for the salary deferral~~
13 ~~reduction agreement,~~

14 ~~(6) any amount of nonelective salary reduction under~~
15 ~~Section 414(h) of the Internal Revenue Code of~~
16 ~~1986, as amended,~~

17 ~~(7) educational allowances paid to obtain training~~
18 ~~certification or pursue an advanced degree,~~

19 ~~(8) longevity payments made to members based upon a~~
20 ~~standardized plan which recognizes length of~~
21 ~~service to the participating municipality,~~

22 ~~(9) paid base salary shall also include base salary,~~
23 ~~as described in divisions (1) through (8) of this~~
24 ~~subparagraph, for services, but paid by the later~~

1 ~~of two and one half (2 1/2) months after a~~
2 ~~member's severance from employment or the end of~~
3 ~~the calendar year that includes the date the~~
4 ~~member terminated employment, if it is a payment~~
5 ~~that, absent a severance from employment, would~~
6 ~~have been paid to the member while the member~~
7 ~~continued in employment with the participating~~
8 ~~municipality,~~

9 ~~(10) any payments not described in divisions (1)~~
10 ~~through (9) of this subparagraph shall not be~~
11 ~~considered paid base salary if paid after~~
12 ~~severance from employment, even if they are paid~~
13 ~~by the later of two and one half (2 1/2) months~~
14 ~~after the date of severance from employment or~~
15 ~~the end of the calendar year that includes the~~
16 ~~date of severance from employment, except~~
17 ~~payments to an individual who does not currently~~
18 ~~perform services for the participating~~
19 ~~municipality by reason of qualified military~~
20 ~~service within the meaning of Section 414(u) (5)~~
21 ~~of the Internal Revenue Code of 1986, as amended,~~
22 ~~to the extent these payments do not exceed the~~
23 ~~amounts the individual would have received if the~~
24 ~~individual had continued to perform services for~~

1 ~~the participating municipality rather than~~
2 ~~entering qualified military service,~~
3 ~~(11) back pay, within the meaning of Section 1.415(c)-~~
4 ~~2(g) (8) of the Income Tax Regulations, shall be~~
5 ~~treated as paid base salary for the limitation~~
6 ~~year to which the back pay relates to the extent~~
7 ~~the back pay represents wages and compensation~~
8 ~~that would otherwise be included in this~~
9 ~~definition, and~~
10 ~~(12) paid base salary shall also include differential~~
11 ~~wage payments under Section 414(u) (12) of the~~
12 ~~Internal Revenue Code of 1986, as amended.~~
13 ~~b. Notwithstanding anything to the contrary in this~~
14 ~~section, paid base salary shall not include any:~~
15 ~~(1) fringe benefits, reimbursements, or increases in~~
16 ~~compensation due to reimbursements to the extent~~
17 ~~not specifically included above in subparagraph a~~
18 ~~of this paragraph,~~
19 ~~(2) incremental increase in compensation which is not~~
20 ~~included by the employer in a member's regular~~
21 ~~base pay for salary increase purposes but is paid~~
22 ~~by the employer to the member for group health~~
23 ~~benefits not otherwise included above in division~~
24 ~~(1) of subparagraph a of this paragraph,~~

1 ~~(3) insurance benefits, including any reimbursements~~
2 ~~thereof, or insurance proceeds of any type not~~
3 ~~otherwise included above in division (1) of~~
4 ~~subparagraph a of this paragraph,~~

5 ~~(4) bonuses, including signing bonuses, lump-sum~~
6 ~~payments or stipends made to the member not~~
7 ~~otherwise included above in division (1) of~~
8 ~~subparagraph a of this paragraph,~~

9 ~~(5) overtime compensation,~~

10 ~~(6) payments whether prior to or upon termination of~~
11 ~~employment for accumulated unused vacation or~~
12 ~~unused annual leave, accumulated unused sick~~
13 ~~leave, or accumulated unused paid time off or~~
14 ~~other unused leave,~~

15 ~~(7) payments made in error to a member,~~

16 ~~(8) payments made by the participating municipality~~
17 ~~for services rendered by the member, which~~
18 ~~services are not part of the member's job duties~~
19 ~~and responsibilities of his or her job position~~
20 ~~with the participating municipality,~~

21 ~~(9) severance pay,~~

22 ~~(10) unemployment payments, and~~

23 ~~(11) uniform and equipment allowances; and effective July 1,~~

24 2020:

- 1 a. all compensation that shall include longevity,
2 education allowances and normal compensation paid on a
3 regularly scheduled pay period in which the pay period
4 shall include holidays, annual leave and sick leave,
- 5 b. any amount of elective salary reduction under Sections
6 401(k) or 457 of Title 26 of the Internal Revenue Code
7 of 1986, as amended, any amount of nonelective salary
8 reduction under Section 414(h) (2) of Title 26 the
9 Internal Revenue Code, any amount of elective salary
10 reduction under Section 125 of Title 26 of the
11 Internal Revenue Code, as well as any amount of
12 elective salary reduction not includable in the gross
13 income of the member under Section 132(f) (4) of Title
14 26 of the Internal Revenue Code and any differential
15 wage payments under Section 414(u) (12) of Title 26 the
16 Internal Revenue Code,
- 17 c. compensation for services, as described in
18 subparagraph a of this paragraph, but paid by the
19 later of two and one-half (2 1/2) months after the
20 severance from employment of the member or the end of
21 the calendar year that includes the date the member
22 terminated employment, if it is a payment that absent
23 a severance from employment, would have been paid to
- 24

- 1 the member while he or she continued in employment
2 with the participating municipality,
- 3 d. any payments not described in subparagraph a, b and c
4 of this paragraph shall not be considered paid base
5 salary if paid after severance from employment, even
6 if they are paid by the later of two and one-half (2
7 1/2) months after the date of severance from
8 employment or the end of the calendar year that
9 includes the date of severance from employment. This
10 shall not include payments to an individual who is not
11 currently performing services for the participating
12 municipality by reason of qualified military services
13 within the meaning of Section 414(u) (5) of Title 26
14 the Internal Revenue Code of 1986, as amended, to the
15 extent these payments do not exceed the amounts the
16 individual would have received if the individual
17 continued to perform services for the participating
18 municipality rather than entering qualified military
19 service, and
- 20 e. paid base salary shall exclude overtime, bonuses,
21 payments whether prior to or upon termination of
22 employment for accumulated unused vacation or unused
23 annual leave, accumulated unused sick leave or
24 accumulated unused paid time off, other unused leave,

1 any uniform allowances or any other compensation for
2 reimbursement of out-of-pocket expenses and any other
3 incremental increase in compensation not included in
4 regular base pay other than an arrangement for group
5 health benefits in place on December 31, 2015, that
6 has continued uninterrupted for a member employed by a
7 participating municipality on June 30, 2016, who has
8 not since terminated employment with the participating
9 municipality; and

10 22. "Actuarial equivalent" means equality in value of the
11 aggregate amounts expected to be received based on interest rate and
12 mortality assumptions set by the State Board, in a manner that
13 precludes employer discretion, and based upon recommendations from
14 independent professional advisors, and which shall be published
15 annually in the actuarial report.

16 SECTION 2. AMENDATORY 11 O.S. 2011, Section 50-116.1, is
17 amended to read as follows:

18 Section 50-116.1. Whenever any member of the police department
19 of any municipality is unable to perform the member's duties because
20 of sickness or temporary disability caused or sustained while in the
21 discharge of the member's duty as such member, notwithstanding the
22 provisions ~~of Sections 11 and 12~~ of Title ~~85~~ 85A of the Oklahoma
23 Statutes, the salary shall be paid by the municipality to the member
24 and shall continue while the member is sick or temporarily disabled

1 for a period of not more than six (6) months with the municipality
2 having the option of extending the period for up to an additional
3 six (6) months, not to exceed a total of twelve (12) months, after
4 which ~~said~~ the period the provisions for permanent total or
5 permanent partial disability benefits of the Oklahoma Police Pension
6 and Retirement System shall apply. Should a member receiving a
7 salary under this section be eligible to receive, and should the
8 salary of the member under this section exceed any temporary
9 disability benefit paid to the member under Section 1 et seq. of
10 Title ~~85~~ 85A of the Oklahoma Statutes, the member shall transfer
11 ~~said~~ the temporary disability benefits under Section 1 et seq. of
12 Title ~~85~~ 85A of the Oklahoma Statutes to the municipality while the
13 member is sick or temporarily disabled.

14 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
15 February 24, 2020 - DO PASS AS AMENDED
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