

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1668

By: Rosino

AS INTRODUCED

An Act relating to the Oklahoma Police Pension and Retirement System; amending 11 O.S. 2011, Sections 50-101, as amended by Section 1, Chapter 346, O.S.L. 2016 (11 O.S. Supp. 2019, Section 50-101) and 50-116.1, which relate to definitions and sickness or temporary disability; modifying definition of paid base salary; correcting improper statutory title reference due to repeal of Title 85 provisions; and updating statutory language.

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;

1 4. "Fund" means the Oklahoma Police Pension and Retirement
2 Fund;

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

9 6. "Member" means all eligible officers of a participating
10 municipality and any person hired by a participating municipality
11 who is undergoing police training to become a permanent police
12 officer of the municipality. Effective July 1, 1987, a member does
13 not include a "leased employee" as defined under Section 414(n)(2)
14 of the Internal Revenue Code of 1986, as amended. Effective July 1,
15 1999, any individual who agrees with the participating municipality
16 that the individual's services are to be performed as a leased
17 employee or an independent contractor shall not be a member
18 regardless of any classification as a common law employee by the
19 Internal Revenue Service or any other governmental agency, or any
20 court of competent jurisdiction. A member shall include eligible
21 commissioned officers of the Oklahoma State Bureau of Narcotics and
22 Dangerous Drugs Control, the Oklahoma State Bureau of Investigation,
23 and the Alcoholic Beverage Laws Enforcement Commission who elect to
24

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

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

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

21 9. "Participating municipality" means a municipality which is
22 making contributions to the System on behalf of its officers. The
23 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the
24 Oklahoma State Bureau of Investigation, and the Alcoholic Beverage
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1 Laws Enforcement Commission shall be treated in the same manner as a
2 participating municipality only regarding those members who elect to
3 participate in the System pursuant to Section 50-111.5 of this
4 title;

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

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

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

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

22 14. "Executive Director" means the managing officer of the
23 System employed by the State Board;
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1 15. "Eligible employer" means any municipality with a municipal
2 police department;

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

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

- 11 a. only paid base salary on which required contributions
12 have been made shall be used in computing a member's
13 final average salary,
- 14 b. for purposes of determining the normal disability
15 benefit only, final average salary shall be based on
16 the member's total service if less than thirty (30)
17 months,
- 18 c. 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, 2002, the
21 annual compensation of each "Noneligible Member" taken
22 into account under the System shall not exceed the
23 Economic Growth and Tax Relief Reconciliation Act of
24 2001 (EGTRRA) annual compensation limit. The EGTRRA

1 annual compensation limit is Two Hundred Thousand
2 Dollars (\$200,000.00), as adjusted by the Commissioner
3 for increases in the cost of living in accordance with
4 Section 401(a)(17)(B) of the Internal Revenue Code of
5 1986, as amended. The annual compensation limit in
6 effect for a calendar year applies to any period, not
7 exceeding twelve (12) months, over which compensation
8 is determined ("determination period") beginning in
9 such calendar year. If a determination period
10 consists of fewer than twelve (12) months, the EGTRRA
11 annual compensation limit will be multiplied by a
12 fraction, the numerator of which is the number of
13 months in the determination period, and the
14 denominator of which is twelve (12). For purposes of
15 this section, a "Noneligible Member" is any member who
16 first became a member during a plan year commencing on
17 or after July 1, 1996,

- 18 d. for plan years beginning on or after July 1, 2002, any
19 reference in the System to the annual compensation
20 limit under Section 401(a)(17) of the Internal Revenue
21 Code of 1986, as amended, shall mean the EGTRRA annual
22 compensation limit set forth in this provision, and
23 e. effective January 1, 2008, back pay, within the
24 meaning of Section 1.415(c)-2(g)(8) of the Income Tax

1 Regulations, shall be treated as paid base salary for
2 the limitation year to which the back pay relates to
3 the extent the back pay represents wages and
4 compensation that would otherwise be included in this
5 definition;

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

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

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

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

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

19 ~~(1) normal compensation paid on a regularly scheduled~~
20 ~~pay period, including, but not limited to,~~
21 ~~regular pay for holidays, paid time off, vacation~~
22 ~~or annual leave, sick leave or compensatory time~~
23 ~~in lieu of overtime, any lump sum payment paid in~~
24 ~~lieu of a normal wage increase, provided such~~

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

- 1 ~~(3) any amount of elective salary reduction not~~
2 ~~includable in the gross income of the member~~
3 ~~under Section 132(f)(4) of the Internal Revenue~~
4 ~~Code of 1986, as amended, that would have been~~
5 ~~treated as paid base salary but for the salary~~
6 ~~deferral reduction agreement,~~
- 7 ~~(4) any amount of elective salary reduction under~~
8 ~~Section 457 of the Internal Revenue Code of 1986,~~
9 ~~as amended, that would have been treated as paid~~
10 ~~base salary but for the salary deferral reduction~~
11 ~~agreement,~~
- 12 ~~(5) any amount of elective salary reduction under~~
13 ~~Section 401(k) of the Internal Revenue Code of~~
14 ~~1986, as amended, that would have been treated as~~
15 ~~paid base salary but for the salary deferral~~
16 ~~reduction agreement,~~
- 17 ~~(6) any amount of nonelective salary reduction under~~
18 ~~Section 414(h) of the Internal Revenue Code of~~
19 ~~1986, as amended,~~
- 20 ~~(7) educational allowances paid to obtain training~~
21 ~~certification or pursue an advanced degree,~~
- 22 ~~(8) longevity payments made to members based upon a~~
23 ~~standardized plan which recognizes length of~~
24 ~~service to the participating municipality,~~

1 ~~(9) paid base salary shall also include base salary,~~
2 ~~as described in divisions (1) through (8) of this~~
3 ~~subparagraph, for services, but paid by the later~~
4 ~~of two and one half (2 1/2) months after a~~
5 ~~member's severance from employment or the end of~~
6 ~~the calendar year that includes the date the~~
7 ~~member terminated employment, if it is a payment~~
8 ~~that, absent a severance from employment, would~~
9 ~~have been paid to the member while the member~~
10 ~~continued in employment with the participating~~
11 ~~municipality,~~

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

1 ~~to the extent these payments do not exceed the~~
2 ~~amounts the individual would have received if the~~
3 ~~individual had continued to perform services for~~
4 ~~the participating municipality rather than~~
5 ~~entering qualified military service,~~

6 ~~(11) back pay, within the meaning of Section 1.415(c)-~~
7 ~~2(g)(8) of the Income Tax Regulations, shall be~~
8 ~~treated as paid base salary for the limitation~~
9 ~~year to which the back pay relates to the extent~~
10 ~~the back pay represents wages and compensation~~
11 ~~that would otherwise be included in this~~
12 ~~definition, and~~

13 ~~(12) paid base salary shall also include differential~~
14 ~~wage payments under Section 414(u)(12) of the~~
15 ~~Internal Revenue Code of 1986, as amended.~~

16 ~~b. Notwithstanding anything to the contrary in this~~
17 ~~section, paid base salary shall not include any:~~

18 ~~(1) fringe benefits, reimbursements, or increases in~~
19 ~~compensation due to reimbursements to the extent~~
20 ~~not specifically included above in subparagraph a~~
21 ~~of this paragraph,~~

22 ~~(2) incremental increase in compensation which is not~~
23 ~~included by the employer in a member's regular~~
24 ~~base pay for salary increase purposes but is paid~~

1 ~~by the employer to the member for group health~~
2 ~~benefits not otherwise included above in division~~
3 ~~(1) of subparagraph a of this paragraph,~~
4 ~~(3) insurance benefits, including any reimbursements~~
5 ~~thereof, or insurance proceeds of any type not~~
6 ~~otherwise included above in division (1) of~~
7 ~~subparagraph a of this paragraph,~~
8 ~~(4) bonuses, including signing bonuses, lump sum~~
9 ~~payments or stipends made to the member not~~
10 ~~otherwise included above in division (1) of~~
11 ~~subparagraph a of this paragraph,~~
12 ~~(5) overtime compensation,~~
13 ~~(6) payments whether prior to or upon termination of~~
14 ~~employment for accumulated unused vacation or~~
15 ~~unused annual leave, accumulated unused sick~~
16 ~~leave, or accumulated unused paid time off or~~
17 ~~other unused leave,~~
18 ~~(7) payments made in error to a member,~~
19 ~~(8) payments made by the participating municipality~~
20 ~~for services rendered by the member, which~~
21 ~~services are not part of the member's job duties~~
22 ~~and responsibilities of his or her job position~~
23 ~~with the participating municipality,~~
24 ~~(9) severance pay,~~

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

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

3 2020:

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

1 terminated employment, if it is a payment that absent
2 a severance from employment, would have been paid to
3 the member while he or she continued in employment
4 with the participating municipality,

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

22 e. paid base salary shall exclude overtime, bonuses,
23 payments whether prior to or upon termination of
24 employment for accumulated unused vacation or unused

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

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

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

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

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

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