

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

HOUSE BILL 1881

By: Christian

AS INTRODUCED

An Act relating to the Oklahoma Police Pension and Retirement System; amending 11 O.S. 2011, Sections 50-101, 50-109 and 50-110, which relate to definitions and contribution amounts; modifying definitions; authorizing election by municipal police officers performing law enforcement duties for counties; requiring county to make employer contributions; requiring officer to make employee contributions; providing for codification; 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. 2011, 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, and
9 shall also include an officer who is employed by a county to perform
10 law enforcement duties as either the direct employee of the county
11 or who performs services for a county pursuant to an agreement
12 between the municipality which is the regular employer of the
13 officer and the county for which such officer will perform law
14 enforcement duties pursuant to the agreement;

15 6. "Member" means all eligible officers of a participating
16 municipality or county pursuant to the provisions of Section 2 of
17 this act and any person hired by a participating municipality who is
18 undergoing police training to become a permanent police officer of
19 the municipality. Effective July 1, 1987, a member does not include
20 a "leased employee" as defined under Section 414(n)(2) of the
21 Internal Revenue Code of 1986, as amended. Effective July 1, 1999,
22 any individual who agrees with the participating municipality that
23 the individual's services are to be performed as a leased employee
24 or an independent contractor shall not be a member regardless of any

1 classification as a common law employee by the Internal Revenue
2 Service or any other governmental agency, or any court of competent
3 jurisdiction. A member shall include eligible commissioned officers
4 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
5 Control, the Oklahoma State Bureau of Investigation, and the
6 Alcoholic Beverage Laws Enforcement Commission who elect to
7 participate in the System pursuant to Section 50-111.5 of this
8 title;

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

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

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

3 9. "Participating ~~municipality~~ employer" means a municipality
4 which is making contributions to the System on behalf of its
5 officers and any county which employs an officer that makes an
6 election to continue participation in the System pursuant to Section
7 2 of this act either because the officer becomes the direct employee
8 of a county or because the officer performs law enforcement services
9 for a county pursuant to an agreement between the municipality that
10 is the regular employer of the officer and a county. The Oklahoma
11 State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma
12 State Bureau of Investigation, and the Alcoholic Beverage Laws
13 Enforcement Commission shall be treated in the same manner as a
14 participating municipality only regarding those members who elect to
15 participate in the System pursuant to Section 50-111.5 of this
16 title;

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

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

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

14 13. "Beneficiary" means a member's surviving spouse or any
15 surviving children, including biological and adopted children, at
16 the time of the member's death. The surviving spouse must have been
17 married to the member for the thirty (30) continuous months
18 immediately preceding the member's death, provided a surviving
19 spouse of a member who died while in, and as a consequence of, the
20 performance of the member's duty for a participating municipality,
21 shall not be subject to the thirty-month marriage requirement for
22 survivor benefits. A surviving child of a member shall be a
23 beneficiary until reaching eighteen (18) years of age or twenty-two
24 (22) years of age if the child is enrolled full time and regularly

1 attending a public or private school or any institution of higher
2 education. Any child adopted by a member after the member's
3 retirement shall be a beneficiary only if the child is adopted by
4 the member for the thirty (30) continuous months preceding the
5 member's death. Any child who is adopted by a member after the
6 member's retirement and such member dies accidentally or as a
7 consequence of the performance of the member's duty as a police
8 officer shall not be subject to the thirty-month adoption
9 requirement. This definition of beneficiary shall be in addition to
10 any other requirement set forth in this article;

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

13 15. "Eligible employer" means any municipality with a municipal
14 police department and any county which employs an officer pursuant
15 to Section 2 of this act;

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

19 17. "Final average salary" means the average paid base salary
20 of the member for normally scheduled hours over the highest salaried
21 thirty (30) consecutive months of the last sixty (60) months of
22 credited service.

23 a. Base salary shall not include payment for accumulated
24 sick and annual leave upon termination of employment,

1 severance pay or any uniform allowances. Provided,
2 for purposes of determining the normal disability
3 benefit, final average salary shall be based on the
4 member's total service if less than thirty (30)
5 months. Base salary shall include any amount of
6 elective salary reduction under Section 457 of the
7 Internal Revenue Code of 1986, as amended, and any
8 amount of nonelective salary reduction under Section
9 414(h) of the Internal Revenue Code of 1986, as
10 amended. Effective January 1, 1988, base salary shall
11 include any amount of elective salary reduction under
12 Section 125 of the Internal Revenue Code of 1986, as
13 amended. Effective July 1, 1998, gross salary shall
14 include any amount of elective salary reduction not
15 includable in the gross income of the member under
16 Section 132(f)(4) of the Internal Revenue Code of
17 1986, as amended. Only salary on which required
18 contributions have been made may be used in computing
19 the final average salary.

- 20 b. In addition to other applicable limitations, and
21 notwithstanding any other provision to the contrary,
22 for plan years beginning on or after July 1, 2002, the
23 annual compensation of each "Noneligible Member" taken
24 into account under the System shall not exceed the

1 Economic Growth and Tax Relief Reconciliation Act of
2 2001 (EGTRRA) annual compensation limit. The EGTRRA
3 annual compensation limit is Two Hundred Thousand
4 Dollars (\$200,000.00), as adjusted by the Commissioner
5 for increases in the cost of living in accordance with
6 Section 401(a)(17)(B) of the Internal Revenue Code of
7 1986, as amended. The annual compensation limit in
8 effect for a calendar year applies to any period, not
9 exceeding twelve (12) months, over which compensation
10 is determined ("determination period") beginning in
11 such calendar year. If a determination period
12 consists of fewer than twelve (12) months, the EGTRRA
13 annual compensation limit will be multiplied by a
14 fraction, the numerator of which is the number of
15 months in the determination period, and the
16 denominator of which is twelve (12). For purposes of
17 this section, a "Noneligible Member" is any member who
18 first became a member during a plan year commencing on
19 or after July 1, 1996.

- 20 c. For plan years beginning on or after July 1, 2002, any
21 reference in the System to the annual compensation
22 limit under Section 401(a)(17) of the Internal Revenue
23 Code of 1986, as amended, shall mean the EGTRRA annual
24 compensation limit set forth in this provision.

1 d. Effective January 1, 2008, base salary shall also
2 include base salary, as described above for services,
3 but paid by the later of two and one-half (2 1/2)
4 months after a member's severance from employment or
5 the end of the calendar year that includes the date
6 the member terminated employment, if it is a payment
7 that, absent a severance from employment, would have
8 been paid to the member while the member continued in
9 employment with the participating municipality.

10 e. Effective January 1, 2008, any payments not described
11 above shall not be considered base salary if paid
12 after severance from employment, even if they are paid
13 by the later of two and one-half (2 1/2) months after
14 the date of severance from employment or the end of
15 the calendar year that includes the date of severance
16 from employment, except payments to an individual who
17 does not currently perform services for the
18 participating municipality by reason of qualified
19 military service within the meaning of Section
20 414(u) (5) of the Internal Revenue Code of 1986, as
21 amended, to the extent these payments do not exceed
22 the amounts the individual would have received if the
23 individual had continued to perform services for the
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1 participating municipality rather than entering
2 qualified military service.

3 f. Effective January 1, 2008, back pay, within the
4 meaning of Section 1.415(c)-2(g)(8) of the Income Tax
5 Regulations, shall be treated as base salary for the
6 limitation year to which the back pay relates to the
7 extent the back pay represents wages and compensation
8 that would otherwise be included in this definition.

9 g. Effective for years beginning after December 31, 2008,
10 base salary shall also include differential wage
11 payments under Section 414(u)(12) of the Internal
12 Revenue Code of 1986, as amended;

13 18. "Accrued retirement benefit" means two and one-half percent
14 (2 1/2%) of the member's final average salary multiplied by the
15 member's years of credited service not to exceed thirty (30) years;

16 19. "Normal disability benefit" means two and one-half percent
17 (2 1/2%) of the member's final average salary multiplied by twenty
18 (20) years;

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

22 21. "Paid base salary" means, effective May 1, 2002, all
23 compensation that shall include longevity, educational allowances,
24 and normal compensation paid on a regularly scheduled pay period of

1 which said pay period shall include holidays, annual leave and sick
2 leave. Paid base salary shall not include overtime, shall not
3 include payment for accumulated sick and annual leave upon
4 termination of employment, and shall not include any uniform
5 allowance or any other compensation for reimbursement of out-of-
6 pocket expenses; and

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

13 SECTION 2. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 50-101.1A of Title 11, unless
15 there is created a duplication in numbering, reads as follows:

16 A. Effective July 1, 2015, any officer employed by a
17 municipality that is an eligible employer of the System who performs
18 law enforcement services as the direct employee of a county or who
19 performs law enforcement service for a county pursuant to an
20 agreement between the municipality which is the regular employer of
21 the officer and a county may elect to continue participation in the
22 Oklahoma Police Pension and Retirement System for any period of time
23 the officer is either a direct employee of a county or for any
24 period of time the officer is performing law enforcement services

1 pursuant to a contract between the municipality which is the regular
2 employer of the officer and a county.

3 B. The county which is the direct employer of an officer making
4 the election authorized by subsection A of this section shall for
5 all purposes of Sections 50-101 et seq. of Title 11 of the Oklahoma
6 Statutes be deemed the employer of the officer and shall be required
7 to make employer contributions as required by Section 50-109 of
8 Title 11 of the Oklahoma Statutes.

9 C. The officer shall continue to make the required employee
10 contributions pursuant to Section 50-110 of Title 11 of the Oklahoma
11 Statutes.

12 SECTION 3. AMENDATORY 11 O.S. 2011, Section 50-109, is
13 amended to read as follows:

14 Section 50-109. Any municipality or county required by Section
15 2 of this act participating in the System shall appropriate funds,
16 for the use and benefit of the System, as provided in the following
17 schedule:

18 1. Prior to July 1, 1991, a minimum of ten percent (10%) of the
19 actual paid base salary of each member of the System employed by the
20 municipality;

21 2. Beginning July 1, 1991, a minimum of ten and one-half
22 percent (10 1/2%) of the actual paid base salary of each member of
23 the System employed by the municipality;

1 3. Beginning July 1, 1992, a minimum of eleven percent (11%) of
 2 the actual paid base salary of each member of the System employed by
 3 the municipality;

4 4. Beginning July 1, 1993, a minimum of eleven and one-half
 5 percent (11 1/2%) of the actual paid base salary of each member of
 6 the System employed by the municipality;

7 5. Beginning July 1, 1994, a minimum of twelve percent (12%) of
 8 the actual paid base salary of each member of the System employed by
 9 the municipality;

10 6. Beginning July 1, 1995, a minimum of twelve and one-half
 11 percent (12 1/2%) of the actual paid base salary of each member of
 12 the System employed by the municipality; and

13 7. Beginning July 1, ~~1996~~ 2015, a minimum of thirteen percent
 14 (13%) of the actual paid base salary of each member of the System
 15 employed by the municipality or county pursuant to Section 2 of this
 16 act.

17 The sum appropriated shall be paid to the System within ten (10)
 18 days following the payroll period on which the contribution is
 19 based.

20 The state shall make such appropriation as is necessary to
 21 assure the retirement benefits provided by the article.

22 SECTION 4. AMENDATORY 11 O.S. 2011, Section 50-110, is
 23 amended to read as follows:

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1 Section 50-110. A. Each member in the System shall contribute
2 to the System a minimum of eight percent (8%) of the member's actual
3 paid base salary.

4 At the option of the participating municipality or county
5 pursuant to the provisions of Section 2 of this act, the
6 participating municipality or county may pay all or any part of the
7 member's required contribution. The sums contributed shall be paid
8 to the System as provided in this article within ten (10) days
9 following the payroll period on which the contributions are based.
10 Amounts deducted from the salary of a member and not paid to the
11 System after thirty (30) days from each ending payroll date shall be
12 subject to a monthly late charge of one and one-half percent (1
13 1/2%) of the unpaid balance to be paid by the municipality to the
14 System. All funds received by a participating municipality or
15 county for police retirement purposes shall be forwarded to the
16 State Board for credit to the Fund.

17 B. Each municipality or county shall pick up under the
18 provisions of Section 414(h) (2) of the Internal Revenue Code of 1986
19 and pay the contribution which the member is required by law to make
20 to the System for all compensation earned after ~~December 31, 1988~~
21 July 1, 2015. Although the contributions so picked up are
22 designated as member contributions, such contributions shall be
23 treated as contributions being paid by the municipality or county in
24 lieu of contributions by the member in determining tax treatment

1 under the Internal Revenue Code of 1986 and such picked up
2 contributions shall not be includable in the gross income of the
3 member until such amounts are distributed or made available to the
4 member or the beneficiary of the member. The member, by the terms
5 of this System, shall not have any option to choose to receive the
6 contributions so picked up directly and the picked up contributions
7 must be paid by the municipality or county to the System.

8 Member contributions which are picked up shall be treated in the
9 same manner and to the same extent as member contributions made
10 prior to the date on which member contributions were picked up by
11 the municipality or county. Member contributions so picked up shall
12 be included in gross salary for purposes of determining benefits and
13 contributions under the System.

14 The municipality or county shall pay the member contributions
15 from the same source of funds used in paying salary to the member,
16 by effecting an equal cash reduction in gross salary of the member.

17 SECTION 5. This act shall become effective July 1, 2015.

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

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23 55-1-6361 MAH 01/19/15
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January 20, 2015

Representative M. Christian
Room 303

Re: RBH No. 6361

RBH No. 6361 would allow an Oklahoma Police Pension and Retirement System participant who performs law enforcement for a county to elect to remain a participant in OPPRS. The county and the participant would make the required contributions.

RBH No. 6361 is a nonfiscal retirement bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act.

Thomas E. Cummins

Thomas E. Cummins, MAAA