

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1538

By: Thomsen

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Law Enforcement Retirement System; amending 47 O.S. 2011, Section 2-305, as last amended by Section 1, Chapter 318, O.S.L. 2013 (47 O.S. Supp. 2015, Section 2-305), which relates to benefit computations; providing for computation of benefits based upon disability; providing for computation of benefits for persons retired prior to designated date; providing for computation of benefits for persons who retire on or after designated date; making appropriation from the Special Cash Fund; prescribing amount and purpose; providing concurrent funding pursuant to the Oklahoma Pension Legislation Actuarial Analysis Act; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 2-305, as last amended by Section 1, Chapter 318, O.S.L. 2013 (47 O.S. Supp. 2015, Section 2-305), is amended to read as follows:

Section 2-305. A. Except as otherwise provided in this title, at any time after attaining normal retirement date, any member of the Oklahoma Law Enforcement Retirement System upon application for unreduced retirement benefits made and approved, may retire, and,

1 during the remainder of the member's lifetime, receive annual
2 retirement pay, payable in equal monthly payments, equal to two and
3 one-half percent (2 1/2%) of the final average salary times years of
4 credited service. If such retired member is reemployed by a state
5 agency in a position which is not covered by the System, such
6 retired member shall continue to receive in-service distributions
7 from the System. Prior to September 19, 2002, if such retired
8 member was reemployed by a state agency in a position which is
9 covered by the System, such member shall continue to receive in-
10 service distributions from the System and shall not accrue any
11 further credited service. If such a member is reemployed by a state
12 agency in a position which is covered by the System on or after
13 September 19, 2002, such member's monthly retirement payments shall
14 be suspended until such member retires and is not reemployed by a
15 state agency in a position which is covered by the System.

16 B. Beginning July 1, 1994, members who retired or were eligible
17 to retire prior to July 1, 1980, or their surviving spouses shall
18 receive annual retirement pay, payable in equal monthly payments,
19 equal to the greater of their current retirement pay, or two and
20 one-half percent (2 1/2%) of the actual paid gross salary being
21 currently paid to a highway patrol officer, at the time each such
22 monthly retirement payment is made, multiplied by the retired
23 member's years of credited service.

24

1 C. Except as otherwise provided by this subsection, members of
2 the System whose salary is set by statute who have retired after
3 completion of the mandatory twenty (20) years of service, and those
4 members with statutory salaries who retire after reaching the
5 mandatory twenty-year retirement, and beginning January 1, 2015,
6 those members who have retired or retire with a service-connected
7 disability pursuant to subsection E of this section, shall receive
8 an annual retirement pay, payable in equal monthly installments,
9 based upon the greater of either:

10 1. The top base pay currently paid to an active member, at the
11 time each such monthly retirement payment is made, multiplied by two
12 and one-half percent (2 1/2%) multiplied by the number of years of
13 credited service and fraction thereof for the following positions:

- 14 a. Oklahoma Highway Patrolman,
- 15 b. Communications Dispatcher,
- 16 c. Capitol Patrolman,
- 17 d. Lake Patrolman,
- 18 e. Oklahoma State Bureau of Investigation - Special Agent
19 or Criminalist; or

20 2. The member's final average salary as set forth in paragraph
21 9 of Section 2-300 of this title, multiplied by two and one-half
22 percent (2 1/2%), and multiplied by the number of years of credited
23 service and fraction thereof.

1 No member of the System retired prior to July 1, 2002, shall
2 receive a benefit less than the amount the member is receiving as of
3 June 30, 2002.

4 The provisions of paragraph 1 of this subsection shall not be
5 applicable to any member whose first participating service with the
6 System occurs on or after November 1, 2012.

7 D. Other members of the System whose retirement benefit is not
8 otherwise prescribed by this section who have retired after
9 completion of the mandatory twenty (20) years of service, and those
10 members who retire after reaching the mandatory twenty-year
11 retirement, and beginning January 1, 2015, those members who have
12 retired or retire with a service-connected disability pursuant to
13 subsection E of this section, shall receive an annual retirement
14 pay, payable in equal monthly payments, based upon the greater of
15 either:

16 1. The actual average salary currently paid to the highest
17 nonsupervisory position in the participating agency, at the time
18 each such monthly payment is made, multiplied by two and one-half
19 percent (2 1/2%), multiplied by the number of years of credited
20 service and fraction thereof for the following positions:

21 a. Alcoholic Beverage Laws Enforcement Commission - ABLE
22 Commission Agent III,

23 b. Oklahoma State Bureau of Narcotics and Dangerous Drugs
24 Control - Narcotics Agent III,

- 1 c. Oklahoma Tourism and Recreation Department - Park
2 Ranger II,
3 d. State Board of Pharmacy - Pharmacy Inspector,
4 e. University of Oklahoma - Police Officer,
5 f. Oklahoma State University - Police Officer; or

6 2. The other member's final average salary as set forth in
7 paragraph 9 of Section 2-300 of this title, multiplied by two and
8 one-half percent (2 1/2%), multiplied by the number of years of
9 credited service and fraction thereof.

10 No member of the System retired prior to July 1, 2002, shall
11 receive a benefit less than the amount the member is receiving as of
12 June 30, 2002. The participating employer must certify to the
13 System in writing the actual average gross salary currently paid to
14 the highest nonsupervisory position. The Board of Trustees shall
15 promulgate such rules as are necessary to implement the provisions
16 of this section.

17 The provisions of paragraph 1 of this subsection shall not be
18 applicable to any member whose first participating service with the
19 System occurs on or after ~~the effective date of this act~~ May 24,
20 2013.

21 E. A member who meets the definition of disability as defined
22 in paragraph 11 of Section 2-300 of this title by direct reason of
23 the performance of the member's duties as an officer shall receive a
24 monthly benefit equal to the greater of fifty percent (50%) of final

1 average salary or two and one-half percent (2 1/2%) of final average
2 salary multiplied by the number of years of the member's credited
3 service. If such member participates in the Oklahoma Law
4 Enforcement Deferred Option Plan pursuant to Section 2-305.2 of this
5 title, then such member's disability pension provided pursuant to
6 this subsection shall be reduced to account for such member's
7 participation in the Oklahoma Law Enforcement Deferred Option Plan.

8 F. A member who meets the definition of disability as defined
9 in paragraph 11 of Section 2-300 of this title and whose disability
10 is by means of personal and traumatic injury of a catastrophic
11 nature and in the line of duty, shall receive a monthly benefit
12 equal to:

- 13 1. Two and one-half percent (2 1/2%);
- 14 2. Multiplied by:
 - 15 a. twenty (20) years of service, regardless of the actual
16 number of years of credited service performed by the
17 member prior to the date of disability, if the member
18 had performed less than twenty (20) years of service,
19 or
 - 20 b. the actual number of years of service performed by the
21 member if the member had performed twenty (20) or more
22 years of service;
- 23 3. Multiplied by a final average salary equal to:

24

- 1 a. the salary which the member would have received
2 pursuant to statutory salary schedules in effect upon
3 the date of the disability for twenty (20) years of
4 service prior to disability. The final average salary
5 for a member who performed less than twenty (20) years
6 of service prior to disability shall be computed
7 assuming that the member was paid the highest salary
8 allowable pursuant to the law in effect at the time of
9 the member's disability based upon twenty (20) years
10 of service and with an assumption that the member was
11 eligible for any and all increases in pay based upon
12 rank during the entire period. If the salary of a
13 member is not prescribed by a specific salary schedule
14 upon the date of the member's disability, the final
15 average salary for the member shall be computed by the
16 member's actual final average salary or the highest
17 median salary amount for a member whose salary was
18 prescribed by a specific salary schedule upon the date
19 of the member's disability, whichever final average
20 salary amount would be greater, or
- 21 b. the actual final average salary of the member if the
22 member had performed twenty (20) or more years of
23 service prior to disability.
- 24

1 If such member participates in the Oklahoma Law Enforcement
2 Deferred Option Plan pursuant to Section 2-305.2 of this title, such
3 member's disability pension provided pursuant to this subsection
4 shall be adjusted as provided in Section 2-305.2 of this title to
5 account for such member's participation in the Oklahoma Law
6 Enforcement Deferred Option Plan.

7 G. A member who meets the definition of disability as defined
8 in Section 2-300 of this title and whose disability occurred prior
9 to the member's normal retirement date but after completing three
10 (3) years of vesting service and not by reason of the performance of
11 the member's duties or as a result of the member's willful
12 negligence shall receive a monthly benefit equal to two and one-half
13 percent (2 1/2%) of final average salary multiplied by the number of
14 years of the member's credited service.

15 H. Payment of a disability pension shall commence as of the
16 first day of the month coinciding or next following the date of
17 retirement and shall continue as long as the member meets the
18 definition of total and permanent disability provided in this
19 section.

20 I. For the purpose of determining the member's disability under
21 subsection E, F or G of this section, the member shall be required
22 by the Board to be examined by a minimum of two recognized
23 physicians selected by the Board to determine the extent of the
24 member's injury or illness. The examining physicians shall furnish

1 the Board a detailed written report of the injury or illness of the
2 examined member establishing the extent of disability and the
3 possibilities of the disabled member being returned to his or her
4 regular duties or an alternate occupation or service covered by the
5 System after a normal recuperation period. The Board shall require
6 all retired disabled members who have not attained their normal
7 retirement date to submit to a physical examination once each year
8 for a minimum of three (3) years following retirement. The Board
9 shall select a minimum of two physicians to examine the retired
10 members and pay for their services from the fund. Any retired
11 disabled member found no longer disabled by the examining physicians
12 to perform the occupation of the member or an alternate occupation
13 or service covered by the System shall be required to return to duty
14 and complete twenty (20) years of service as provided in subsection
15 A of this section, or forfeit all his or her rights and claims under
16 Section 2-300 et seq. of this title.

17 J. The disability benefit under this section shall be for the
18 lifetime of the member unless such member is found no longer
19 disabled pursuant to subsection I of this section. Such member
20 shall not be entitled to the retirement benefit pursuant to
21 subsection A of this section unless such member returns to active
22 duty and is eligible for a retirement benefit as provided in
23 subsection A of this section.

1 K. At the postoffer, preemployment physical examination
2 required under paragraph 6 of Section 2-300 of this title, the
3 physician selected by the Board shall determine the extent to which
4 a new member is disabled. If a member is determined to be partially
5 disabled, the physician shall assign a percentage of disability to
6 such partial disability. If such member then becomes entitled to a
7 disability benefit under either subsection E or subsection G of this
8 section, the benefit payable shall be reduced by the percentage
9 which such member was determined to be disabled at the postoffer,
10 preemployment physical unless the Board makes a determination that
11 the initially determined percentage of disability at the
12 preemployment physical examination is unrelated to the reason for
13 the disability currently sought pursuant to subsection E or
14 subsection G of this section. Upon employment, the member shall
15 disclose to the Board any disability payments received from any
16 source. The amount of disability to be paid to any member cannot
17 exceed one hundred percent (100%) disability from all sources. The
18 provisions of this subsection shall apply only to members whose
19 effective date of membership is on or after July 1, 2000.

20 L. In addition to the pension provided for under subsection F
21 of this section, if said member has one or more children under the
22 age of eighteen (18) years or under the age of twenty-two (22) years
23 if the child is enrolled full time in and is regularly attending a
24 public or private school or any institution of higher education,

1 Four Hundred Dollars (\$400.00) a month shall be paid from said Fund
2 for the support of each surviving child to the member or person
3 having the care and custody of such children until each child
4 reaches the age of eighteen (18) years or reaches the age of twenty-
5 two (22) years if the child is enrolled full time in and is
6 regularly attending a public or private school or any institution of
7 higher education.

8 M. Notwithstanding any other provisions in Section 2-300
9 through 2-315 of this title, in order to be eligible to receive
10 disability benefits, a member who meets the definition of disability
11 as defined in paragraph 11 of Section 2-300 of this title shall file
12 the member's completed application for disability benefits with the
13 System before such member's date of termination from service and
14 provide such additional information that the System's rules require
15 within six (6) months of the System's receipt of such application.
16 If the member's completed application for disability benefits is not
17 filed with the System before the member's date of termination from
18 service or such additional information as is required under the
19 System's rules is not provided within six (6) months of the System's
20 receipt of such application, such member shall be eligible only for
21 such other benefits as are available to members of the System and
22 shall not be eligible to receive any disability benefits.

23 N. If the requirements of Section 2-305.1C of this title are
24 satisfied, a member who, by reason of disability or attainment of

1 normal retirement date or age, is separated from service as a public
2 safety officer with the member's participating employer may elect to
3 have payment made directly to the provider for qualified health
4 insurance premiums by deduction from his or her monthly disability
5 benefit or monthly retirement payment, after December 31, 2006, in
6 accordance with Section 402(1) of the Internal Revenue Code of 1986,
7 as amended.

8 SECTION 2. There is hereby appropriated to the Oklahoma Law
9 Enforcement System from any monies not otherwise appropriated from
10 the Special Cash Fund of the State Treasury, the sum of Three
11 Million Six Hundred Ninety-four Thousand Dollars (\$3,694,000.00) to
12 provide concurrent funding required by the Oklahoma Pension
13 Legislation Actuarial Analysis Act for the benefit authorized by
14 Section 1 of this act.

15 SECTION 3. It being immediately necessary for the preservation
16 of the public peace, health and safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval.

19

20 55-2-9305 MAH 02/24/16

21

22

23

24