

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 2167

By: Ford

AS INTRODUCED

An Act relating to the Oklahoma Law Enforcement Retirement System; amending 47 O.S. 2021, Section 2-305, which relates to retirement pay; modifying benefit calculations for certain members; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 2021, Section 2-305, as amended by Section 2, Chapter 255, O.S.L. 2022 (47 O.S. Supp. 2022, 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, during the remainder of the member's lifetime, receive annual retirement pay, payable in equal monthly payments, equal to two and one-half percent (2 1/2%) of the final average salary times years of credited

1 service. If such retired member is reemployed by a state agency in
2 a position which is not covered by the System, such retired member
3 shall continue to receive in-service distributions from the System.
4 Prior to September 19, 2002, if such retired member was reemployed
5 by a state agency in a position which is covered by the System, such
6 member shall continue to receive in-service distributions from the
7 System and shall not accrue any further credited service. If such a
8 member is reemployed by a state agency in a position which is
9 covered by the System on or after September 19, 2002, such member's
10 monthly retirement payments shall be suspended until such member
11 retires and is not reemployed by a state agency in a position which
12 is covered by the System.

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

21 C. Except as otherwise provided by this subsection, members of
22 the System whose salary is set by statute who have retired after
23 completion of the mandatory twenty (20) years of service, and those
24 members with statutory salaries who retire after reaching the

1 mandatory twenty-year retirement shall receive an annual retirement
2 pay, payable in equal monthly installments, based upon the greater
3 of either:

4 1. The top base salary currently paid to the highest
5 nonsupervisory position in the participating agency at the time each
6 such monthly retirement payment is made, limited to the annual
7 salary limit of the Economic Growth and Tax Relief Reconciliation
8 Act of 2001, as described in paragraph 9 of Section 2-300 of this
9 title, multiplied by two and one-half percent (2 1/2%) multiplied by
10 the number of years of credited service and fraction thereof for the
11 following positions:

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

18 2. The member's final average salary as set forth in paragraph
19 9 of Section 2-300 of this title, multiplied by two and one-half
20 percent (2 1/2%), and multiplied by the number of years of credited
21 service and fraction thereof.

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

1 The provisions of paragraph 1 of this subsection shall ~~not be~~
2 ~~applicable to any member whose first participating service with the~~
3 ~~System occurs on or after November 1, 2012, except for~~ include those
4 members who died in the performance of their duties pursuant to
5 Section 2-306 of this title.

6 D. Other members of the System whose retirement benefit is not
7 otherwise prescribed by this section who have retired after
8 completion of the mandatory twenty (20) years of service, and those
9 members who retire after reaching the mandatory twenty-year
10 retirement shall receive an annual retirement pay, payable in equal
11 monthly payments, based upon the greater of either:

12 1. The actual average salary currently paid to the highest
13 nonsupervisory position in the participating agency at the time each
14 such monthly payment is made, limited to the annual salary limit of
15 the Economic Growth and Tax Relief Reconciliation Act of 2001, as
16 described in paragraph 9 of Section 2-300 of this title, multiplied
17 by two and one-half percent (2 1/2%), multiplied by the number of
18 years of credited service and fraction thereof for the following
19 positions:

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

22 b. Oklahoma State Bureau of Narcotics and Dangerous Drugs
23 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, and
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 May 24, 2013, except for include those~~
20 members who died in the performance of their duties pursuant to
21 Section 2-306 of this title.

22 E. A member who meets the definition of disability as defined
23 in paragraph 11 of Section 2-300 of this title by direct reason of
24

1 the performance of the member's duties as an officer shall receive a
2 monthly benefit equal to:

3 1. Two and one-half percent (2 1/2%);

4 2. Multiplied by:

5 a. twenty (20) years of credited service, if the member
6 had performed less than twenty (20) years of credited
7 service, notwithstanding the actual number of years of
8 credited service performed by the member prior to the
9 date of disability, or

10 b. the actual number of years of credited service and
11 fraction thereof performed by the member prior to the
12 date of disability, if the member had performed twenty
13 (20) or more years of credited service;

14 3. Multiplied by the greater of subparagraph a of this
15 paragraph and division 1 of subparagraph b of this paragraph or
16 division 2 of subparagraph b of this paragraph, as applicable:

17 a. the final average salary of the member, as set forth
18 in paragraph 9 of Section 2-300 of this title, and

19 b. (1) the top base salary currently paid to the highest
20 nonsupervisory position in the participating
21 agency of the member at the time each monthly
22 payment is made, limited to the annual salary
23 limit of the Economic Growth and Tax Relief
24 Reconciliation Act of 2001 described in paragraph

1 9 of Section 2-300 of this title, for the
2 following positions:

- 3 (a) Oklahoma Highway Patrolman,
- 4 (b) Communications Dispatcher,
- 5 (c) Capitol Patrolman,
- 6 (d) Lake Patrolman, and
- 7 (e) Oklahoma State Bureau of Investigation -
8 Special Agent or Criminalist,

9 Provided, the participating employer must certify to the System
10 in writing the top base salary currently paid to the highest
11 nonsupervisory position for division (1) of subparagraph b of this
12 paragraph, or

- 13 (2) the actual average salary currently paid to the
14 highest nonsupervisory position in the
15 participating agency of the member at the time
16 each monthly payment is made, limited to the
17 annual salary limit of the Economic Growth and
18 Tax Relief Reconciliation Act of 2001, described
19 in paragraph 9 of Section 2-300 of this title,
20 for the following positions:

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

1 (b) Oklahoma State Bureau of Narcotics and
2 Dangerous Drugs Control - Narcotics Agent
3 III,

4 (c) Oklahoma Tourism and Recreation Department -
5 Park Ranger II,

6 (d) State Board of Pharmacy - Pharmacy
7 Inspector,

8 (e) University of Oklahoma - Police Officer, and

9 (f) Oklahoma State University - Police Officer,

10 Provided, the participating employer must certify to the System
11 in writing the actual average gross salary currently paid to the
12 highest nonsupervisory position for division (2) of subparagraph b
13 of this paragraph;

14 4. No member of the System receiving benefits prescribed by
15 this subsection who retired prior to July 1, 2002, shall receive a
16 benefit of less than the amount the member was receiving as of June
17 30, 2002;

18 5. The Board of Trustees shall promulgate rules as necessary to
19 implement the provisions of this subsection; and

20 6. If such member participates in the Oklahoma Law Enforcement
21 Deferred Option Plan pursuant to Section 2-305.2 of this title, then
22 such member's disability pension provided pursuant to this
23 subsection shall be reduced to account for such member's
24 participation in the Oklahoma Law Enforcement Deferred Option Plan.

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

6 1. Two and one-half percent (2 1/2%);

7 2. Multiplied by:

8 a. twenty (20) years of service, regardless of the actual
9 number of years of credited service performed by the
10 member prior to the date of disability, if the member
11 had performed less than twenty (20) years of service,
12 or

13 b. the actual number of years of service performed by the
14 member if the member had performed twenty (20) or more
15 years of service;

16 3. Multiplied by a final average salary equal to:

17 a. the salary which the member would have received
18 pursuant to statutory salary schedules in effect upon
19 the date of the disability for twenty (20) years of
20 service prior to disability. The final average salary
21 for a member who performed less than twenty (20) years
22 of service prior to disability shall be computed
23 assuming that the member was paid the highest salary
24 allowable pursuant to the law in effect at the time of

1 the member's disability based upon twenty (20) years
2 of service and with an assumption that the member was
3 eligible for any and all increases in pay based upon
4 rank during the entire period. If the salary of a
5 member is not prescribed by a specific salary schedule
6 upon the date of the member's disability, the final
7 average salary for the member shall be computed by the
8 member's actual final average salary or the highest
9 median salary amount for a member whose salary was
10 prescribed by a specific salary schedule upon the date
11 of the member's disability, whichever final average
12 salary amount would be greater, or

- 13 b. the actual final average salary of the member if the
14 member had performed twenty (20) or more years of
15 service prior to disability.

16 If such member participates in the Oklahoma Law Enforcement
17 Deferred Option Plan pursuant to Section 2-305.2 of this title, such
18 member's disability pension provided pursuant to this subsection
19 shall be adjusted as provided in Section 2-305.2 of this title to
20 account for such member's participation in the Oklahoma Law
21 Enforcement Deferred Option Plan.

22 G. A member who meets the definition of disability as defined
23 in Section 2-300 of this title and whose disability occurred prior
24 to the member's normal retirement date but after completing three

1 (3) years of vesting service and not by reason of the performance of
2 the member's duties or as a result of the member's willful
3 negligence shall receive a monthly benefit equal to two and one-half
4 percent (2 1/2%) of final average salary multiplied by the number of
5 years of the member's credited service.

6 H. Payment of a disability pension shall commence as of the
7 first day of the month coinciding or next following the date of
8 retirement and shall continue as long as the member meets the
9 definition of total and permanent disability provided in this
10 section.

11 I. For the purpose of determining the member's disability under
12 subsection E, F or G of this section, the member shall be required
13 by the Board to be examined by a minimum of two recognized
14 physicians selected by the Board to determine the extent of the
15 member's injury or illness. The examining physicians shall furnish
16 the Board a detailed written report of the injury or illness of the
17 examined member establishing the extent of disability and the
18 possibilities of the disabled member being returned to his or her
19 regular duties or an alternate occupation or service covered by the
20 System after a normal recuperation period. The Board shall require
21 all retired disabled members who have not attained their normal
22 retirement date to submit to a physical examination once each year
23 for a minimum of three (3) years following retirement. The Board
24 shall select a minimum of two physicians to examine the retired

1 members and pay for their services from the fund. Any retired
2 disabled member found no longer disabled by the examining physicians
3 to perform the occupation of the member or an alternate occupation
4 or service covered by the System shall be required to return to duty
5 and complete twenty (20) years of service as provided in subsection
6 A of this section, or forfeit all his or her rights and claims under
7 Section 2-300 et seq. of this title.

8 J. The disability benefit under this section shall be for the
9 lifetime of the member unless such member is found no longer
10 disabled pursuant to subsection I of this section. Such member
11 shall not be entitled to the retirement benefit pursuant to
12 subsection A of this section unless such member returns to active
13 duty and is eligible for a retirement benefit as provided in
14 subsection A of this section.

15 K. At the postoffer, preemployment physical examination
16 required under paragraph 6 of Section 2-300 of this title, the
17 physician selected by the Board shall determine the extent to which
18 a new member is disabled. If a member is determined to be partially
19 disabled, the physician shall assign a percentage of disability to
20 such partial disability. If such member then becomes entitled to a
21 disability benefit under either subsection E or subsection G of this
22 section, the benefit payable shall be reduced by the percentage
23 which such member was determined to be disabled at the postoffer,
24 preemployment physical unless the Board makes a determination that

1 the initially determined percentage of disability at the
2 preemployment physical examination is unrelated to the reason for
3 the disability currently sought pursuant to subsection E or
4 subsection G of this section. Upon employment, the member shall
5 disclose to the Board any disability payments received from any
6 source. The amount of disability to be paid to any member cannot
7 exceed one hundred percent (100%) disability from all sources. The
8 provisions of this subsection shall apply only to members whose
9 effective date of membership is on or after July 1, 2000.

10 L. In addition to the pension provided for under subsection F
11 of this section, if the member has one or more children under the
12 age of eighteen (18) years or under the age of twenty-two (22) years
13 if the child is enrolled full time in and is regularly attending a
14 public or private school or any institution of higher education,
15 Four Hundred Dollars (\$400.00) a month shall be paid from the Fund
16 for the support of each surviving child to the member or person
17 having the care and custody of such children until each child
18 reaches the age of eighteen (18) years or reaches the age of twenty-
19 two (22) years if the child is enrolled full time in and is
20 regularly attending a public or private school or any institution of
21 higher education.

22 M. Notwithstanding any other provisions in Section 2-300
23 through 2-315 of this title, in order to be eligible to receive
24 disability benefits, a member who meets the definition of disability

1 as defined in paragraph 11 of Section 2-300 of this title shall file
2 the member's completed application for disability benefits with the
3 System before such member's date of termination from service and
4 provide such additional information that the System's rules require
5 within six (6) months of the System's receipt of such application.
6 If the member's completed application for disability benefits is not
7 filed with the System before the member's date of termination from
8 service or such additional information as is required under the
9 System's rules is not provided within six (6) months of the System's
10 receipt of such application, such member shall be eligible only for
11 such other benefits as are available to members of the System and
12 shall not be eligible to receive any disability benefits. For good
13 cause shown, the Board of Trustees may waive the requirement that
14 the disability application be filed before the member's date of
15 termination from service. In no event shall a member be eligible to
16 receive any disability benefit if the member's completed application
17 is filed more than six (6) months after the member's date of
18 termination from service.

19 N. If the requirements of Section 2-305.1C of this title are
20 satisfied, a member who, by reason of disability or attainment of
21 normal retirement date or age, is separated from service as a public
22 safety officer with the member's participating employer may elect to
23 have payment made directly to the provider for qualified health
24 insurance premiums by deduction from his or her monthly disability

1 benefit or monthly retirement payment, after December 31, 2006, in
2 accordance with Section 402(1) of the Internal Revenue Code of 1986,
3 as amended.

4 SECTION 2. This act shall become effective July 1, 2023.

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

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10 59-1-5826 CMA 12/07/22

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January 3, 2023

Representative Russ Ford
Room 300

Re: RHB No. 5826

RBH No. 5826 provides for those participants who entered OLERS after November 1, 2012 to have their benefit determined by using the greater of the compensation of the highest non supervisory position of their employing agency and their highest average compensation. Currently benefits are based on the highest average compensation.

RBH No. 5826 is a fiscal bill as defined by OPLAAA.

I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Thomas E. Cummins

Thomas E. Cummins, MAAA