

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1616

By: Roberts

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Law Enforcement Retirement System; amending 47 O.S. 1991, Sections 2-300, as amended by Section 5, Chapter 390, O.S.L. 1992, 2-305.2 and 2-306 (47 O.S. Supp. 1992, Section 2-300), which relate to definitions, deferred option plan and payments in case of death; modifying definition; modifying options for receipt of payment from the deferred option plan; modifying eligibility requirement for certain payments; 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. 1991, Section 2-300, as amended by Section 5, Chapter 390, O.S.L. 1992 (47 O.S. Supp. 1992, Section 2-300), is amended to read as follows:

Section 2-300. As used in this act:

1. "System" means the Oklahoma Law Enforcement Retirement System;
2. "Act" means Sections 2-300 through 2-313 of this title;
3. "Board" means the Oklahoma Law Enforcement Retirement Board of the System;
4. "Fund" means the Oklahoma Law Enforcement Retirement Fund;
5. "Member" means all law enforcement officers of the Oklahoma Highway Patrol, the Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and the Oklahoma Alcoholic Beverage Control Board designated to perform duties in the investigation and prevention of crime and the enforcement of the criminal laws of this state, and members of the Communications Division to include radio technicians, tower technicians and commissioned officers of the Lake Patrol Division of the Oklahoma Department of

Public Safety, park rangers of the Oklahoma Tourism and Recreation Department and inspectors of the Oklahoma State Board of Pharmacy, provided that all persons who shall be offered a position of a law enforcement officer shall participate in the System upon the person meeting the requisite post offer-pre-employment physical examination standards which shall be subject to the following requirements:

- a. all such persons shall be of good moral character, free from deformities, mental or physical conditions, or disease and alcohol or drug addiction which would prohibit the person from performing the duties of a law enforcement officer,
- b. said physical-medical examination shall pertain to age, sight, hearing, agility and other conditions the requirements of which shall be established by the Board,
- c. the person shall be required to meet the conditions of this subsection prior to the beginning of actual employment but after an offer of employment has been tendered by a participating employer,
- d. the Board shall have authority to deny or revoke membership of any person submitting false information in such person's membership application,
- e. the Board shall have final authority in determining eligibility for membership in the System, pursuant to the provisions of this subsection;

6. "Normal retirement date" means the date at which the member is eligible to receive the unreduced payments of the member's accrued retirement benefit. Such date shall be the first day of the month coinciding with or following the date the member:

- a. completes twenty (20) years of vesting service; or
- b. attains sixty-two (62) years of age with ten (10) years of vesting service; or
- c. attains sixty-two (62) years of age, if:

- i. the member has been transferred to this System from the Oklahoma Public Employees Retirement System on or after July 1, 1981; and
- ii. the member would have been vested had the member continued to be a member of the Oklahoma Public Employees Retirement System;

A member who was required to join the System effective July 1, 1980, because of the transfer of the employing agency from the Oklahoma Public Employees Retirement System to the System, and was not a member of the Oklahoma Public Employees Retirement System on the date of such transfer shall be allowed to receive credit for prior law enforcement service rendered to this state, if the member is not receiving or eligible to receive retirement credit or benefits for such service in any other public retirement system, upon payment to the System of the employee contribution the member would have been subject to had the member been a member of the System at the time, plus five percent (5%) interest. Service credit received pursuant to this paragraph shall be used in determining the member's retirement benefit, and shall be used in determining years of service for retirement or vesting purposes;

7. "Actual paid base salary" means the salary received by a member, excluding payment for any accumulated leave or uniform allowance. Salary shall include any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986;

8. "Final average salary" means the average of the highest thirty (30) consecutive complete months of actual paid gross salary. Gross salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986 and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986. Only salary on which required contributions have been made may be used in computing the final average salary;

9. "Credited service" means the period of service used to determine the amount of benefits payable to a member. Credited

service shall consist of the period during which the member participated in the System or the predecessor Plan as an active employee in an eligible membership classification, plus any service prior to the establishment of the predecessor Plan which was credited under the predecessor Plan and for officers of the Oklahoma State Bureau of Investigation and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control who became members of the System on July 1, 1980, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1980, and for members of the Communications and Lake Patrol Divisions of the Oklahoma Department of Public Safety, who became members of the System on July 1, 1981, any service credited under the predecessor Plan or the Oklahoma Public Employees Retirement System as of June 30, 1981, and for law enforcement officers of the Oklahoma Alcoholic Beverage Control Board who become members of the System on July 1, 1982, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1982, and for park rangers of the Oklahoma Tourism and Recreation Department who became members of the System on July 1, 1985, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1985, and for inspectors of the Oklahoma State Board of Pharmacy who became members of the System on July 1, 1986, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1986;

10. "Disability" means a physical or mental condition which, in the judgment of the Board, totally and presumably permanently prevents the member from engaging in the usual and customary duties of the occupation of the member and thereafter prevents the member from performing the duties of any occupation or service for which the member is qualified by reason of training, education or experience. A person is not under a disability when capable of performing a service to the employer, regardless of occupation, providing the salary of the employee is not diminished thereby; and

11. "Limitation year" means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, which year shall be the calendar year.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 2-305.2, is amended to read as follows:

Section 2-305.2 A. In lieu of terminating employment and accepting a service retirement pension pursuant to Section 2-305 of Title 47 of the Oklahoma Statutes, any member of the Oklahoma Law Enforcement Retirement System who has not less than twenty (20) years of creditable service and who is eligible to receive a service retirement pension may elect to participate in the Oklahoma Law Enforcement Deferred Option Plan and defer the receipts of benefits in accordance with the provisions of this section.

B. For purposes of this section, creditable service shall include service credit reciprocally recognized pursuant to Sections 2-300 through 2-305.1 of Title 47 of the Oklahoma Statutes but for eligibility purposes only.

C. The duration of participation in the Oklahoma Law Enforcement Deferred Option Plan for a member shall not exceed five (5) years. At the conclusion of a member's participation in the Oklahoma Law Enforcement Deferred Option Plan, the member shall terminate employment with all state law enforcement agencies as an officer, and shall start receiving the member's accrued monthly retirement benefit from the System.

D. When a member begins participation in the Oklahoma Law Enforcement Deferred Option Plan, the contribution of the employee shall cease. The employer contributions shall continue to be paid in accordance with Section 2-304 of Title 47 of the Oklahoma Statutes. Employer contributions for employees who elect the Oklahoma Law Enforcement Deferred Option Plan shall be credited equally to the Oklahoma Law Enforcement Retirement System and to the Oklahoma Law Enforcement Deferred Option Plan. The monthly retirement benefits that would have been payable had the member elected to cease employment and receive a service retirement shall

be paid into the Oklahoma Law Enforcement Deferred Option Plan account.

E. 1. A member who participates in this plan shall be eligible to receive cost of living increases.

2. A member who participates in this plan shall earn interest at a rate of two percentage points below the rate of return of the investment portfolio of the System, but no less than the actuarial assumed interest rate as certified by the actuary in the yearly evaluation report of the actuary. The interest shall be credited to the individual account balance of the member on an annual basis.

F. A participant in the Oklahoma Law Enforcement Deferred Option Plan shall receive, at the option of the participant, ~~a:~~

1. A lump sum payment from the account equal to the payments to the option account, balance of the participant, payable to the participant;

2. A lump sum payment from the account equal to the option account balance of the participant, payable to the annuity provider which shall be selected by the participant as a result of the research and investigation of the participant; or a true annuity based upon the account of the participant or may elect any

3. Any other method of payment if approved by the Board.

G. If the participant dies during the period of participation in the Oklahoma Law Enforcement Deferred Option Plan, a lump sum payment equal to the account balance of the participant shall be paid in accordance with Section 2-306.3 of Title 47 of the Oklahoma Statutes.

H. The Oklahoma Law Enforcement Deferred Option Plan shall not be implemented until October 1, 1990, or when the Board obtains a ruling from the Internal Revenue Service which affirmatively states that said plan shall be treated as a qualified plan for federal income tax purposes, which ever comes last.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 2-306, is amended to read as follows:

Section 2-306. A. Upon the death of a retired member or upon the death of any member prior to retirement or other termination of covered employment, a monthly pension shall be paid which shall be in an amount as provided below:

1. If the member was not retired and death occurred as the direct result of the performance of the member's duties as an officer, an amount equal to the monthly payments which would have been received by the member under subsection B of Section 2-305 of this title, had the member been totally disabled; or

2. If the member was not retired and death occurred other than as the direct result of the performance of the member's duties as an officer, an amount equal to the monthly payments which would have been received by the member under subsection C of Section 2-305 had the member been totally disabled; or

3. If said member was retired for length of service, an amount equal to the member's monthly payments; or

4. If said member was retired for total disability, an amount equal to the member's monthly payments; or

5. If said member was retired for partial disability, an amount equal to the monthly payments which would have been received by said member had the member been totally disabled.

B. The pension provided for in subsection A of this section shall be paid:

1. To the surviving spouse for such time as the surviving spouse remains unmarried, provided the surviving spouse was married to the member continuously for the thirty-six (36) months immediately preceding the member's retirement date, provided a surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for the employer, shall not be subject to the thirty-six-month marriage requirement for survivor benefits. Upon remarriage of the surviving spouse, there shall be no further pension payments to any person; or

2. If there is no eligible surviving spouse or upon the death of a spouse, who has not remarried, to the person having the care and custody of any surviving child or children of said member for

such time as such child or children are under the age of eighteen (18) years; or

3. If there be no surviving spouse or children under the age of eighteen (18), to the dependent parent or parents of said member, for life.

C. In addition to the pension above provided for, if said member leaves a surviving spouse and one or more children under the age of eighteen (18) years or under the age of twenty-two (22) years if the child is enrolled full-time in an accredited school of learning, One Hundred Dollars (\$100.00) a month shall be paid from said Fund for the support of each surviving child to the person having the care and custody of such children during such time as said spouse remains alive and until each child reaches the age of eighteen (18) years or reaches the age of twenty-two (22) years if the child is enrolled full-time in an accredited school of learning.

D. Notwithstanding the provisions of this section, in the event a surviving spouse remarries, and the member leaves one or more children under the age of eighteen (18) years or under the age of twenty-two (22) years if the child is enrolled full-time in an accredited school of learning, the pension provided for in subsection A of this section shall be paid from the Fund for the support of said children in lieu of the amount provided for in subsection C of this section. Said pension shall be paid to the person having the care and custody of such children until each child reaches the age of eighteen (18) years or reaches the age of twenty-two (22) years if the child is enrolled full-time in an accredited school of learning.

SECTION 4. This act shall become effective July 1, 1993.

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

