

SHORT TITLE: Retirement; the Oklahoma Law Enforcement Retirement System; expanding definition; transferring funds; effective date; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 909

By: Hobson

AS INTRODUCED

An Act relating to retirement; amending 47 O.S. 1991, Section 2-300, as last amended by Section 1, Chapter 294, O.S.L. 1995, and Section 2, Chapter 277, O.S.L. 1993 (47 O.S. Supp. 1995, Sections 2-300 and 2-309.6), which relate to the Oklahoma Law Enforcement Retirement System; expanding definition of member; providing for certain Department of Corrections employees to join the Oklahoma Law Enforcement Retirement System; providing for the transfer of funds; 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 last amended by Section 1, Chapter 294, O.S.L. 1995 (47 O.S. Supp. 1995, 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. "Executive Director" means the managing officer of the System employed by the Board;

5. "Fund" means the Oklahoma Law Enforcement Retirement Fund;

6. "Member" means all law enforcement officers of the Oklahoma Highway Patrol and the State Capitol Division of the Department of Public Safety and all commissioned officers in the Gunsmith/Ammunition Reloader Division of the Department of Public Safety who have obtained certification from the Council on Law Enforcement Education and Training, 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, and any employee of the Department of Corrections, who was employed prior to July 1, 1996, and who elects on or before September 1, 1996, to participate in the System, and all employees of the Department of Corrections who are initially employed on or after July 1, 1996, without the right to make an election, 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;

7. "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:
  - (1) the member has been transferred to this System from the Oklahoma Public Employees Retirement System on or after July 1, 1981; and
  - (2) 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;

8. "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;

9. "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;

10. "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, for law enforcement officers of the State Capitol Division of the Department of Public Safety who became members of the System effective July 1, 1993, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1993, and for all commissioned officers in the Gunsmith/Ammunition Reloader Division of the Department of Public Safety who became members of the System effective July 1, 1994, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1994, and for the employees of the Department of Corrections who were employed prior to July 1, 1996, and who elect to become members of the System effective September 1, 1996, any service credited pursuant to subsection C of Section 2-309.6 of this title;

11. "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

12. "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 Section 2, Chapter 277, O.S.L. 1993 (47 O.S. Supp. 1995, Section 2-309.6), is amended to read as follows:

Section 2-309.6 A. For purposes of this section, "capitol patrol members" means law enforcement officers of the State Capitol Division of the Department of Public Safety employed on July 1, 1993, who, pursuant to the provisions of this act, transfer membership from the Oklahoma Public Employees Retirement System to the Oklahoma Law Enforcement Retirement System.

B. Capitol patrol members are hereby transferred from the Oklahoma Public Employees Retirement System to the Oklahoma Law Enforcement Retirement System subject to the following:

1. Effective July 1, 1993, capitol patrol members who are members of the Oklahoma Public Employees Retirement System shall cease accruing benefits in the Oklahoma Public Employees Retirement System and shall commence accruing benefits in the Oklahoma Law Enforcement Retirement System;

2. Before January 1, 1994, the Oklahoma Public Employees Retirement System shall transfer to the Oklahoma Law Enforcement Retirement System the actual amount contributed to the Oklahoma Public Employees Retirement System from time to time by the capitol patrol members while members of the Oklahoma Public Employees Retirement System and the contributions by the participating employer or employers on behalf of each capitol patrol member to the

Oklahoma Law Enforcement Retirement System along with the retirement records of said transferring capitol patrol members;

3. Service credit accrued by a capitol patrol member while a member of the Oklahoma Public Employees Retirement System shall be treated as credited service for such transferring capitol patrol member in the Oklahoma Law Enforcement Retirement System if the capitol patrol member is not receiving or eligible to receive service credit or benefits from said service in any other public retirement system and the member has not received service credit for the same years of service pursuant to Sections 2-307.1, 2-307.3 and 2-307.4 of Title 47 of the Oklahoma Statutes. Provided, however, that the total of credited service for each transferring employee shall not exceed the credited service said employee could have accrued if his or her entire employment with an agency of the State of Oklahoma had been as an employee of the Department of Public Safety. Provided further, that only transferred credited service related to actual law enforcement service with the State Capitol Patrol Division of the Department of Public Safety will be included in the determination of a capitol patrol member's normal retirement date or vesting date; and

4. All service credit with the Oklahoma Public Employees Retirement System which is ineligible for transfer to the Law Enforcement Retirement System shall be canceled.

C. Any employee of the Department of Corrections who was employed prior to July 1, 1996, and who elects on or before September 1, 1996, to participate in the Oklahoma Law Enforcement Retirement System is hereby transferred from the Oklahoma Public Employees Retirement System to the Oklahoma Law Enforcement Retirement System subject to the following:

1. Effective July 1, 1996, employees of the Department of Corrections who are members of the Oklahoma Public Employees Retirement System and who elect on or before September 1, 1996, to

participate in the Oklahoma Law Enforcement Retirement System shall cease accruing benefits in the Oklahoma Public Employees Retirement System and shall commence accruing benefits in the Oklahoma Law Enforcement Retirement System;

2. Before January 1, 1997, the Oklahoma Public Employees Retirement System shall transfer to the Oklahoma Law Enforcement Retirement System the actual amount contributed to the Oklahoma Public Employees Retirement System by the employee of the Department of Corrections while he or she was a member of the Oklahoma Public Employees Retirement System and the contributions by the participating employer or employers on behalf of each employee of the Department of Corrections who elects to become a member of the Oklahoma Law Enforcement Retirement System along with the retirement records of said transferring employee;

3. Service credit accrued by an employee of the Department of Corrections while a member of the Oklahoma Public Employees Retirement System shall be treated as credited service for such transferring employees in the Oklahoma Law Enforcement Retirement System if said employee is not receiving or eligible to receive service credit or benefits from said service in any other public retirement system and the member has not received service credit for the same years of service pursuant to Sections 2-307.1, 2-307.3 and 2-307.4 of Title 47 of the Oklahoma Statutes. Provided, however, that the total of credited service for each transferring employee shall not exceed the credited service the employee could have accrued if his or her entire employment with an agency of the State of Oklahoma had been as an employee of the Department of Corrections. Provided further, that only transferred credited service related to actual service with the Department of Corrections will be included in the determination of an employee's normal retirement date or vesting date; and

4. All service credit with the Oklahoma Public Employees Retirement System which is ineligible for transfer to the Oklahoma Law Enforcement Retirement System shall be canceled.

D. All employees of the Department of Corrections who are initially employed in such a capacity on or after July 1, 1996, shall hereafter be members of the Oklahoma Law Enforcement Retirement System, and shall not be eligible to belong to the Oklahoma Public Employees Retirement System.

SECTION 3. This act shall become effective July 1, 1996.

SECTION 4. 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.

45-2-1844

SLM