

ENGROSSED HOUSE AMENDMENTS
TO
ENGROSSED SENATE BILL NO. 1036

By: Stipe of the Senate

and

Corn of the House

(retirement - Department of Corrections employees -
gender neutral - true twenty-year retirement -
effective date -
emergency)

AUTHOR: Add the following House Coauthor: Hilliard

AMENDMENT NO. 1. Page 1, line 13, strike the enacting clause

AMENDMENT NO. 2. Page 1, line 14 through page 19, line 18, delete
all of Sections 1 and 2 and insert new Sections 1
and 2 to read

"SECTION 1. AMENDATORY 47 O.S. 1991, Section 2-300, as
last amended by Section 22, Chapter 257, O.S.L. 1999 (47 O.S. Supp.
1999, 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 and prevention of crime and the enforcement Oklahoma Alcoholic Beverage Control Board designated to perform duties in the investigation 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 park manager or park supervisor of the Oklahoma Tourism and Recreation Department who was employed in such a position prior to July 1, 1985, and who elects on or before September 1, 1996, to participate in the System and any correctional or probation and parole officer of the Oklahoma Department of Corrections who was employed in such a position prior to July 1, 2000, and who elects on or before December 31, 2000, to participate in the System. A member does not include a "leased employee" or independent contractor, including a leased employee, as defined under Section 414(n)(2) of the Internal Revenue Code of 1986, as amended. Any individual who contracts with the Board for services to be performed as a leased employee or an independent contractor shall not be a member regardless of any classification as a common-law employee by the Internal Revenue Service or any other governmental agency, or any court of competent jurisdiction, 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;

Effective July 1, 1989, notwithstanding any other provision contained herein to the contrary, in no event shall commencement of distribution of the accrued retirement benefit of a member be delayed beyond April 1 of the calendar year following the later of:

1. The calendar year in which the member reaches seventy and one-half (70 1/2) years of age; or

2. The actual retirement date of the member. The preceding sentence does not allow deferral of benefit commencement beyond the age of sixty-five (65).

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.

In addition to other applicable limitations, and notwithstanding any other provision to the contrary, for plan years beginning on or after July 1, 1996, the annual gross salary of each "Noneligible Member" taken into account under the System shall not exceed the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) annual salary limit. The OBRA '93 annual salary limit is One Hundred Fifty Thousand Dollars (\$150,000.00), as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The annual salary limit in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which salary is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the OBRA '93 salary limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12). For purposes of this section, a "Noneligible Member" is any member who first became a member during a plan year commencing on or after July 1, 1996.

For plan years beginning on or after July 1, 1996, any reference in the System to the annual salary limit under Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall mean the OBRA '93 salary limit set forth in this provision.

If gross salary for any prior determination period is taken into account in determining a Noneligible Member's benefits accruing in the current plan year, the gross salary for that prior determination period is subject to the OBRA '93 annual salary limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first

plan year beginning on or after July 1, 1996, the OBRA '93 annual salary limit is One Hundred Fifty Thousand Dollars (\$150,000.00).

Effective July 1, 1989, through June 30, 1997, in determining the gross salary of a member for purposes of this limitation, the rules of Section 414(q) (6) of the Internal Revenue Code of 1986, as amended, shall apply, except in applying such rules, the term "family" shall include only the spouse of the member and any lineal descendants of the member who have not attained age nineteen (19) before the close of the year. If, as a result of the application of such rules, the adjusted annual salary limitation is exceeded, then the limitation shall be prorated among the affected individuals in proportion to each such individual's gross salary as determined under this section prior to the application of this limitation.

The family member aggregation rules set forth in the preceding paragraph shall apply only to plan years beginning prior to July 1, 1997;

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 became 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 park managers or park supervisors of the Oklahoma Tourism and Recreation Department who were employed in such a position prior to July 1, 1985, and who elect to become members of the System effective September 1, 1996, any service transferred pursuant to subsection C of Section 2-309.6 of this title, and for the correctional officers or probation and parole officers of the Oklahoma Department of Corrections who were employed in such a position prior to July 1, 2000, and who elect to become members of the System effective not later than December 31, 2000, any service transferred pursuant to subsection D of Section 2-309.6 of this title. Effective August 5, 1993, an authorized leave of absence shall include a period of absence pursuant to the Family and Medical Leave Act of 1993;

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, as amended by Section 2, Chapter 60, O.S.L. 1996 (47 O.S. Supp. 1999, 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~~ this title. 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 park manager or park supervisor of the Oklahoma Tourism and Recreation Department who was employed in such a position prior to July 1, 1985, 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, park managers and park supervisors 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 park manager or park supervisor 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 park manager or park supervisor who elects to become a member of the Oklahoma Law Enforcement Retirement System along with the retirement records of said transferring park manager or park supervisor;

3. To receive service credit accrued by such park manager or park supervisor prior to July 1, 1996, or prior to the date as of which the person making the election ceases to be a member of the Oklahoma Public Employees Retirement System, whichever date occurs last, the member shall pay the difference between the amount transferred by the Oklahoma Public Employees Retirement System to the Oklahoma Law Enforcement Retirement System in paragraph 2 of this subsection and the amount determined by the Board of Trustees pursuant to Section 2-307.5 of this title. The park manager or park supervisor shall elect to either pay any difference to receive full credit for the years sought to be transferred or receive prorated service credit for only the amount received from the Oklahoma Public Employees Retirement System pursuant to this subsection. Such an election shall be made in writing, filed with the System prior to receiving the credit provided for in paragraph 10 of Section 2-300

of this title, and shall be irrevocable. Payments made by park managers or park supervisors pursuant to this paragraph shall be made on or before January 1, 1997;

4. Service credit accrued by a park manager or park supervisor while a member of the Oklahoma Public Employees Retirement System shall be treated as credited service for such transferring park managers or park supervisors in the Oklahoma Law Enforcement Retirement System if the park manager or park supervisor 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 this title. 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 Oklahoma Tourism and Recreation Department. Provided further, that only transferred credited service related to park ranger, park manager or park supervisor service with the Oklahoma Tourism and Recreation Department will be included in the determination of a park manager or park supervisor's normal retirement date or vesting date; and

5. 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. Any correctional officer or probation and parole officer of the Oklahoma Department of Corrections who was employed in such a position prior to July 1, 2000, and who elects on or before December 31, 2000, 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, 2000, correctional officers and probation and parole officers who are members of the Oklahoma Public Employees Retirement System and who elect on or before December 31, 2000, 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, 2001, 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 correctional officer or probation and parole officer while such person was a member of the Oklahoma Public Employees Retirement System and the contributions by the participating employer or employers on behalf of each correctional officer or probation and parole officer who elects to become a member of the Oklahoma Law Enforcement Retirement System along with the retirement records of said transferring correctional officer or probation and parole officer;

3. To receive service credit accrued by such correctional officer or probation and parole officer prior to July 1, 2000, or prior to the date as of which the person making the election ceases to be a member of the Oklahoma Public Employees Retirement System, whichever date occurs last, the member shall pay the difference between the amount transferred by the Oklahoma Public Employees Retirement System to the Oklahoma Law Enforcement Retirement System in paragraph 2 of this subsection and the amount determined by the Board of Trustees pursuant to Section 2-307.5 of this title. The correctional officer or probation and parole officer shall elect to either pay any difference to receive full credit for the years sought to be transferred or receive prorated service credit for only the amount received from the Oklahoma Public Employees Retirement System pursuant to this subsection. Such an election shall be made

in writing, filed with the System prior to receiving the credit provided for in paragraph 10 of Section 2-300 of this title, and shall be irrevocable. Payments made by correctional officers or probation and parole officers pursuant to this paragraph shall be made on or before January 1, 2001;

4. Service credit accrued by a correctional officer or a probation and parole officer while a member of the Oklahoma Public Employees Retirement System shall be treated as credited service for such transferring correctional officers or probation and parole officers in the Oklahoma Law Enforcement Retirement System if the correctional officer or probation and parole officer 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 this title. 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 Oklahoma Department of Corrections. Provided further, that only transferred credited service related to correctional officer or probation and parole officer service with the Oklahoma Department of Corrections will be included in the determination of a correctional officer's or a probation and parole officer's normal retirement date or vesting date; and

5. 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."

and when title is restored, amend accordingly

Passed the House of Representatives the 19th day of April, 2000.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 2000.

President of the Senate