

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 2355

By: Corn

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Law Enforcement Retirement System; amending 47 O.S. 1991, Sections 2-305, as last amended by Section 1, Chapter 315, O.S.L. 1996 and 2-306, as last amended by Section 7, Chapter 419, O.S.L. 1998 (47 O.S. Supp. 1999, Sections 2-305 and 2-306), which relate to benefits; modifying retirement benefit computations; providing certain retirement benefits not affected; modifying benefit payable based upon death under certain circumstances; modifying provisions related to payment of benefits to certain children; 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 2-305, as last amended by Section 1, Chapter 315, O.S.L. 1996 (47 O.S. Supp. 1999, 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 System upon application therefor 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 service.~~ No member shall be required to retire for length of service unless and until the member shall have reached the age of sixty (60) years, but any member of the System who shall have reached the age of sixty (60) years and who shall also have completed twenty (20) years or more of credited service shall be retired by the Board unless, after application to the Board and such examination and showing as the Board may deem proper, the Board

shall determine that such member of the System is physically and mentally able to continue to perform duties or service as required of a member. Unless such application be made by a member of the System within thirty (30) days after reaching the age of sixty (60) years and completing twenty (20) years or more of credited service or if, after such application and examination, the Board shall determine that such member of the System is not physically or mentally able to continue to perform services as required of the employer, the Board shall by resolution order his retirement with retirement pay for length of service as provided herein.

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

C. Members of the Highway Patrol who have retired after completion of the mandatory twenty (20) years of service, and those Highway Patrol Officers who retire after reaching the mandatory twenty-year retirement, shall receive an annual retirement pay, payable in equal monthly payments, based upon the greater of either:

1. One-half (1/2) of the base pay currently paid to an active patrolman, at the time each such monthly retirement payment is made, multiplied by two and one-half percent (2 1/2%) multiplied by the number of years of credited service and fraction thereof; or

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

No member of the System retired prior to July 1, 2000, shall receive a benefit less than the amount the member is receiving as of June 30, 2000.

D. Members of the Communications Division who have retired after completion of the mandatory twenty (20) years of service, and those communications dispatchers who retire after reaching the mandatory twenty-year retirement shall receive an annual retirement pay, payable in equal monthly payments, based upon the greater of:

1. One-half (1/2) of the base pay currently paid to an active communications dispatcher, at the time each such monthly retirement payment is made, multiplied by two and one-half percent (2 1/2%), multiplied by the number of years of credited service and fraction thereof; or

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

No member of the System retired prior to July 1, 2000, shall receive a benefit less than the amount the member is receiving as of June 30, 2000.

E. Other members of the System whose retirement benefit is not otherwise prescribed by this section shall receive an annual retirement pay, payable in equal monthly payments, equal to the member's final average salary, as set forth in paragraph 9 of Section 2-300 of this title, multiplied by two and one-half percent (2 1/2%), multiplied by the number of years of credited service and fraction thereof.

F. A member who meets the definition of disability as defined in Section 2-300 of this title and whose disability occurred prior to the member's normal retirement date and by direct reason of the performance of the member's duties as an officer shall receive a monthly benefit equal to the greater of fifty percent (50%) of final

average salary or two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of the member's credited service.

~~D.~~ G. A member who meets the definition of disability as defined in Section 2-300 of this title and whose disability occurred prior to the member's normal retirement date but after completing three (3) years of vesting service and not by reason of the performance of the member's duties as an officer or as a result of the member's willful negligence shall receive a monthly benefit equal to two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of the member's credited service. For the purpose of determining the member's disability under the System, the member shall be required by the Board to be examined by a minimum of two recognized physicians selected by the Board to determine the extent of his injury or illness. The examining physicians shall furnish the Board a detailed written report of the injury or illness of the examined member establishing the extent of disability and the possibilities of the disabled member being returned to his regular duties or an alternate occupation or service covered by the System after a normal recuperating period.

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

~~F.~~ I. The Board shall require all retired disabled members who have not attained their normal retirement date to submit to a physical examination once each year for a minimum of three (3) years following retirement. The Board shall select a minimum of two physicians to examine the retired members and pay for their services from the fund. Any retired disabled member found no longer disabled by the examining physicians to perform the occupation of the member

or an alternate occupation or service covered by the System shall be required to return to duty and complete twenty (20) years of service as provided in subsection A of this section, or forfeit all his rights and claims under this act.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 2-306, as last amended by Section 7, Chapter 419, O.S.L. 1998 (47 O.S. Supp. 1999, 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: ~~the monthly payments which would have been received by the member under subsection C of Section 2-305 of this title, had the member been totally disabled~~

a. equal to two and one-half percent (2 1/2%),

b. multiplied by:

(1) twenty (20) years of service, regardless of the actual number of years of credited service performed by the member prior to the date of death if the member had performed less than twenty (20) years of service, or

(2) the actual number of years of service performed by the member if the member had performed twenty (20) or more years of service,

c. multiplied by a final average salary equal to:

(1) the salary which the member would have received pursuant to statutory salary schedules in effect upon the date of death for twenty (20) years of service if the member did not actually perform twenty (20) years of service prior to death. The

final average salary for a member who performed less than twenty (20) years of service prior to death shall be computed assuming that the member was paid the highest salary allowable pursuant to the law in effect at the time of the member's death based upon twenty (20) years of service and with an assumption that the member was eligible for any and all increases in pay based upon rank during the entire period. If the salary of a member is not prescribed by a specific salary schedule upon the date of the member's death, the final average salary for the member shall be computed by the member's actual final average salary or the highest median salary amount for a member whose salary was prescribed by a specific salary schedule upon the date of the member's death, whichever final average salary amount would be greater, or

(2) the actual final average salary of the member if the member had performed twenty (20) or more years of service prior to death; 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 D of Section 2-305 of this title 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. Except as provided in paragraph 4 of this subsection, to the surviving spouse, provided the surviving spouse was married to the member at the time of the member's death, and continuously for the thirty (30) months immediately preceding the member's death, 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-month marriage requirement for survivor benefits; or

2. If there is no surviving spouse or upon the death of a spouse:

- a. 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
- b. to the surviving child or children between the age of eighteen (18) and twenty-two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education if the school or institution is located within the State of Oklahoma;

3. If there is no surviving spouse or 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 and is regularly attending a public or private school or any institution of higher education if the school or institution is located within the State of Oklahoma, to the dependent parent or parents of said member, for life; or

4. In the event a surviving spouse remarried prior to June 7, 1993, and was 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, the surviving spouse shall be eligible to receive the pension benefits provided for in subsection A of this section.

To receive the pension benefits provided for in subsection A of this section the surviving spouse falling within this paragraph shall submit a written request for such benefits to the Oklahoma Law Enforcement Retirement System. The Oklahoma Law Enforcement Retirement System shall approve requests by surviving spouses meeting the requirements of this paragraph. Upon approval by the Oklahoma Law Enforcement Retirement System, the surviving spouse shall be entitled to the pension benefits provided for in subsection A of this section beginning from the date of approval forward. Pension benefits provided to surviving spouses falling within this paragraph shall not apply to alter any amount of pension benefits paid or due prior to the Oklahoma Law Enforcement Retirement System's approval of the remarried surviving spouse's written request for benefits.

No surviving spouse shall receive benefits from this section, Section 49-113 of Title 11 of the Oklahoma Statutes, or Section 50-117 of Title 11 of the Oklahoma Statutes as the surviving spouse of more than one member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, or the Oklahoma Law Enforcement Retirement System. The surviving spouse of more than one member shall elect which member's benefits he or she will receive.

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 and is regularly attending a public or private school or any institution of higher education, 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 and is regularly attending a public or private school or any institution of higher education.

D. Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the beneficiary of the member or to the member's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

SECTION 3. This act shall become effective July 1, 2000.

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.

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