

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 357

By: Leftwich

AS INTRODUCED

An Act relating to retirement; amending 47 O.S. 1991, Section 2-300, as last amended by Section 1, Chapter 60, O.S.L. 1996 (47 O.S. Supp. 1998, Section 2-300), which relates to the Oklahoma Law Enforcement Retirement System; updating agency references; expanding definition of member; expanding definition of credited service; providing for certain correctional officers and probation and parole officers to join the Oklahoma Law Enforcement Retirement System; providing for the transfer of funds; prescribing procedure for transfer of service credit; 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 60, O.S.L. 1996 (47 O.S. Supp. 1998, 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~~ Alcoholic Beverage Laws Enforcement Commission 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 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 officer or probation and parole officer of the Department of Corrections who was employed in such position prior to July 1, 1999, and who elects on or before September 1, 1999, to participate in the System, 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 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 correctional officers or probation and parole officers of the Department of Corrections who were employed in such a position prior to July 1, 1999, and who elect to become members of the System effective September 1, 1999, any service transferred pursuant to Section 2 of this act;

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. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-309.8 of Title 47, unless there is created a duplication in numbering, reads as follows:

Any correctional officer or probation and parole officer employed by the Department of Corrections who was employed in such a position prior to July 1, 1999, and who elects on or before September 1, 1999, 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, 1999, correctional officers and probation and parole officers who are members of the Oklahoma Public Employees Retirement System and who elect on or before September 1, 1999, 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. On or before January 1, 2000, 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 and probation and parole officer 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 correctional officer or probation and parole officer who elect 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, 1999, 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 section 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 section. Such election shall be made in writing and filed with the Oklahoma Law Enforcement Retirement System prior to September 1, 1999, and shall be irrevocable. Any payments made by the correctional officer or probation and parole officer pursuant to this paragraph shall be made pursuant to Section 2-307.5 of this title.

4. Service credit accrued by a correctional officer or probation and parole officer while a member of the Oklahoma Public Employees Retirement System shall be treated as credited service for such transferring correctional officer or probation and parole officer in the Oklahoma Law Enforcement Retirement System if the correctional officer or probation and parole officer is not receiving or eligible to receive service credits or benefits for such 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 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 a member of the Oklahoma Public Employees Retirement System. Provided further that only transferred credited service related to correctional officers or probation and parole officers with the Department of Corrections will be included in the determination of a correctional officer or probation and parole officer's normal retirement date or vesting date.

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.

6. All correctional officers and probation and parole officers hired after July 1, 1999, shall be members of the Oklahoma Law Enforcement Retirement System subject to the restrictions set forth in Section 2-300 of this title.

SECTION 3. This act shall become effective July 1, 1999.

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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