

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL 1367

By: Easley

COMMITTEE SUBSTITUTE

[ Grand River Dam Authority - Oklahoma Law  
Enforcement Retirement System - codification -  
effective date -  
  
emergency ]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 47 O.S. 2001, 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 Laws Enforcement

Commission designated to perform duties in the investigation and prevention of crime and the enforcement of the criminal laws of this state, Grand River Dam Authority lake patrol officers pursuant to Section 2 of this act, 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. Effective July 1, 1987, a member does not include a "leased employee" as defined under Section 414(n)(2) of the Internal Revenue Code of 1986, as amended. Effective July 1, 1999, any individual who agrees with the participating employer that the individual's services are 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, and
- 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, as amended, and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986, as amended. Effective July 1, 1992, gross salary shall include any amount of elective salary reduction under Section 125 of the Internal Revenue Code of 1986, as amended. 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;

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 Grand River Dam Authority lake patrol officers who were employed in such position prior to July 1, 2002, and who elect to become members of the System pursuant to Section 2 of this act. 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;

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;

13. "Line of duty" means any action which a member whose primary function is crime control or reduction or enforcement of the criminal law is obligated or authorized by rule, regulations, condition of employment or service, or law to perform, including those social, ceremonial, or athletic functions to which the member is assigned, or for which the member is compensated, by the agency the member serves;

14. "Personal injury" or "injury" means any traumatic injury as well as diseases which are caused by or result from such an injury, but not occupational diseases;

15. "Catastrophic nature" means consequences of an injury that permanently prevent an individual from performing any gainful work; and

16. "Traumatic injury" means a wound or a condition of the body caused by external force, including injuries inflicted by bullets, explosives, sharp instruments, blunt objects or other physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria, but excluding stress and strain.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-309.9 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Any Grand River Dam Authority lake patrol officer who was employed in such a position prior to July 1, 2002, and who elects on or before October 1, 2002, 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, 2002, Grand River Dam Authority lake patrol officers who are members of the Oklahoma Public Employees

Retirement System and who make a written irrevocable election on or before October 1, 2002, 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 once the election has been submitted to the Oklahoma Public Employees Retirement System and to the Oklahoma Law Enforcement Retirement System;

2. Before January 1, 2003, 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 Grand River Dam Authority lake patrol 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 Grand River Dam Authority lake patrol officer who elects to become a member of the Oklahoma Law Enforcement Retirement System along with the retirement records of such transferring Grand River Dam Authority lake patrol officer;

3. To receive service credit accrued by such Grand River Dam Authority lake patrol officer prior to July 1, 2002, 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 Title 47 of the Oklahoma Statutes. The Grand River Dam Authority lake patrol 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 Title 47 of the Oklahoma Statutes, and shall be irrevocable. Payments made by Grand River Dam Authority lake patrol officers pursuant to this paragraph shall be made on or before January 1, 2003;

4. Service credit accrued by a Grand River Dam Authority lake patrol officer while a member of the Oklahoma Public Employees Retirement System shall be treated as credited service for such transferring Grand River Dam Authority lake patrol officers in the Oklahoma Law Enforcement Retirement System if the Grand River Dam Authority lake patrol officer is not receiving or eligible to receive service credit or benefits from 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 Title 47 of the Oklahoma Statutes. Provided further, that only transferred credited service related to Grand River Dam Authority lake patrol service will be included in the determination of a Grand River Dam Authority lake patrol 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.

B. All Grand River Dam Authority lake patrol officers hired after June 30, 2002, shall be members of the Oklahoma Law Enforcement Retirement System.

SECTION 3. AMENDATORY 82 O.S. 2001, Section 864, is amended to read as follows:

Section 864. A. 1. The Board of Directors of the Grand River Dam Authority shall select a secretary who shall keep true and complete records of all proceedings of the Board. Until the

appointment of a secretary, or in the event of absence or inability to act, a secretary pro tempore shall be selected by the Board.

2. The Board shall also select a general manager, who shall be the chief executive officer of the district, and a treasurer, who may also hold the office of secretary.

3. All such officers shall have the powers and duties, and shall hold office for such term and be subject to removal in such manner as may be provided in the compensation of such officers. The Board may appoint such officers, fix their compensation and term of office and the method by which they may be removed and delegate to them such other powers and duties as it may deem appropriate.

4. Except for the purpose of inquiry, the Board and its members shall deal with the operations of the district solely through the general manager. The Board and its members shall not:

- a. direct or request the general manager or other authority to appoint or remove officers or employees except as herein provided,
- b. participate in any manner in the appointment or removal of officers and employees of the district, except as provided by law, or
- c. give orders or ordinary administrative matters to any subordinate of the general manager either publicly or privately.

B. The general manager may appoint such other officers, agents, and employees, fix their compensation pursuant to the provisions of this section, and term of office and the method by which they may be removed, and delegate to them such of its power and duties as the general manager may deem proper.

C. Except as provided in subsection A of this section, the compensation of employees of the Grand River Dam Authority shall be computed as follows:

1. Beginning July 1, 1993, and biannually thereafter, the Office of Personnel Management shall conduct a comprehensive classification and compensation study of all positions in the Grand River Dam Authority. The study shall include, but not be limited to, an analysis of prevailing rates of pay for all positions in electrical generating utilities for jobs comparable to those performed by employees of the Grand River Dam Authority. A report shall be provided to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Board of Directors of the Grand River Dam Authority by January 1, 1994. The report shall include an analysis of all positions and classifications and recommend an average comparable pay scale developed through the study. The Grand River Dam Authority shall bear the cost of the study;

2. Beginning July 1, 1994, the Board of Directors of the Grand River Dam Authority shall implement the classification and compensation recommendations as appropriate if fiscal constraints and commitments to ratepayers permit. Such implementation shall be within existing guidelines of the Merit System as determined by the Office of Personnel Management. If the recommendations are not implemented by the Authority, then it shall report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives why such recommendations were not implemented within thirty (30) days of making a decision not to implement the recommendations; and

3. Beginning July 1, 1997, the Board of Directors of the Grand River Dam Authority may implement adjustments in compensation to correct internal inequities as determined by the Board of Directors. The total of these adjustments and those described in paragraph 2 of this subsection shall not increase the base payroll in excess of the recommendation in the Office of Personnel Management study.

SECTION 4. This act shall become effective July 1, 2002.

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.

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