

ENROLLED SENATE
BILL NO. 1261

By: Corn of the Senate

and

Ferguson, Nance and
Smithson of the House

An Act relating to retirement; amending 47 O.S. 2001, Sections 2-300, as last amended by Section 31 of Enrolled House Bill No. 2725 of the 2nd Session of the 49th Oklahoma Legislature, 2-305, as last amended by Section 4, Chapter 406, O.S.L. 2003, 2-305.2, as last amended by Section 33 of Enrolled House Bill No. 2725 of the 2nd Session of the 49th Oklahoma Legislature, 2-306, as amended by Section 5, Chapter 399, O.S.L. 2002, 2-306.3, as amended by Section 4, Chapter 352, O.S.L. 2002, 2-307.5, as amended by Section 12, Chapter 406, O.S.L. 2003, and 2-307.7, as amended by Section 13, Chapter 406, O.S.L. 2003 (47 O.S. Supp. 2003, Sections 2-300, 2-305, 2-305.2, 2-306, 2-306.3, 2-307.5 and 2-307.7), which relate to the Oklahoma Law Enforcement Retirement System; correcting outline; providing gender neutral language; providing definition; allowing certain disability benefit after normal retirement date; providing conditional adjustment of certain disability benefit; deleting certain determination by the Board; allowing certain disability benefit after normal retirement date; providing conditional adjustment of certain disability benefit; updating references; requiring participating service for certain purposes; defining participating service; clarifying language regarding termination of employment; clarifying status of certain payment; providing for certain payment to designated beneficiary and estate of member; clarifying status of certain payment; requiring participating service for certain purposes; clarifying certain death benefits; incorporating designated beneficiary definition regarding death benefits; clarifying certain installment payment language; deleting obsolete language; repealing 47 O.S. 2001, Section 2-310, which relates to medical and hospital expenses; 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. 2001, Section 2-300, as last amended by Section 31 of Enrolled House Bill No. 2725 of the

2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 2-300. As used in Section 2-300 et seq. of this act ~~act~~ title:

1. "System" means the Oklahoma Law Enforcement Retirement System;
2. "Act" means ~~Sections~~ Section 2-300 through 2-313 et seq. 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 who have obtained certification from the Council on Law Enforcement Education and Training, law enforcement officers and criminalists of the Oklahoma State Bureau of Investigation, law enforcement officers of 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, 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;

With respect to distributions under the System made for calendar years beginning on or after January 1, 2001, the System will apply the minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, in accordance with the regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, that were proposed in January 2001, notwithstanding any provision of the System to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, or such other date as may be specified in guidance published by the Internal Revenue Service. Furthermore, to the extent applicable, distributions shall be made in accordance with regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, including the minimum distribution incidental benefit requirements of the Proposed Income Tax Regulations.

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 (1) the~~ calendar year in which the member reaches seventy and one-half (70 1/2) years of age; or ~~2. The (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. Effective July 1, 1998, gross salary shall include any amount of elective salary reduction not includable in the gross income of the member under Section 132(f)(4) of the Internal Revenue Code of 1986, as amended. Effective July 1, 1998, for purposes of determining a member's compensation, any contribution by the member to reduce his or her regular cash remuneration under Section 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be treated as if the member did not make such an election. 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, 2002, the annual gross salary of each "Noneligible Member" taken into account under the System shall not exceed the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") annual salary limit. The EGTRRA annual salary limit is Two Hundred Thousand Dollars (\$200,000.00), 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 EGTRRA 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, 2002, 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 EGTRRA salary limit set forth in this provision;

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 law enforcement officers and criminalists 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 Alcoholic Beverage Laws Enforcement Commission 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 Oklahoma Capitol Patrol 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. 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; and

17. "Beneficiary" means the individual designated by the member on a beneficiary designation form supplied by the Oklahoma Law Enforcement Retirement System, or if there is no designated beneficiary or if the designated beneficiary predeceases the member, the estate of the member. If the member's spouse is not designated as the sole primary beneficiary, the member's spouse must sign a consent.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 2-305, as last amended by Section 4, Chapter 406, O.S.L. 2003 (47 O.S. Supp. 2003, 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 for unreduced retirement benefits 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. If such retired member is reemployed by a state agency in a position which is not covered by the System, such retired member shall continue to receive in-service distributions from the System. Prior to September 19,

2002, if such retired member was reemployed by a state agency in a position which is covered by the System, such member shall continue to receive in-service distributions from the System and shall not accrue any further credited service. If such a member is reemployed by a state agency in a position which is covered by the System on or after September 19, 2002, such member's monthly retirement payments shall be suspended until such member retires and is not reemployed by a state agency in a position which is covered by the System. 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 or her 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 System whose salary is set by statute who have retired after completion of the mandatory twenty (20) years of service, and those members with statutory salaries who retire after reaching the mandatory twenty-year retirement, shall receive an annual retirement pay, payable in equal monthly installments, based upon the greater of either:

1. The top base pay currently paid to an active member, 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 for the following positions:

- a. Oklahoma Highway Patrolman,
- b. Communications Dispatcher,
- c. Capitol Patrolman,
- d. Lake Patrolman,
- e. Oklahoma State Bureau of Investigation—Special Agent;
or

2. 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%), and multiplied by the number of years of credited service and fraction thereof.

No member of the System retired prior to July 1, 2002, shall receive a benefit less than the amount the member is receiving as of June 30, 2002.

D. Other members of the System whose retirement benefit is not otherwise prescribed by this section who have retired after completion of the mandatory twenty (20) years of service, and those members 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. The actual average salary currently paid to the highest nonsupervisory position in the participating agency, at the time each such monthly 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 for the following positions:

- a. Alcoholic Beverage ~~Law~~ Laws Enforcement Commission-ABLE Commission Agent III,
- b. Oklahoma State Bureau of Narcotics and Dangerous Drugs Control-Narcotics Agent III,
- c. Oklahoma Tourism and Recreation Department-Park Ranger II,
- d. Oklahoma State Board of Pharmacy-Pharmacy Inspector,
- e. University of Oklahoma-Police Officer,
- f. Oklahoma State University-Police Officer; or

2. The other 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.

No member of the System retired prior to July 1, 2002, shall receive a benefit less than the amount the member is receiving as of June 30, 2002. The participating employer must certify to the System in writing the actual average gross salary currently paid to the highest nonsupervisory position. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this section.

E. A member who meets the definition of disability as defined in paragraph 11 of 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. If such member participates in the Oklahoma Law Enforcement Deferred Option Plan pursuant to Section 2-305.2 of this title, then such member's disability pension provided pursuant to this subsection shall be reduced to account for such member's participation in the Oklahoma Law Enforcement Deferred Option Plan.

F. A member who meets the definition of disability ~~and such determination is made by Board action on or subsequent to July 1, 2000,~~ as defined in paragraph 11 of Section 2-300 of this title ~~and whose disability occurred prior to the member's normal retirement date~~ and whose disability is by means of personal and traumatic injury of a catastrophic nature and in the line of duty, shall receive a monthly benefit equal to:

1. Two and one-half percent (2 1/2%);
2. Multiplied by:
 - a. twenty (20) years of service, regardless of the actual number of years of credited service performed by the member prior to the date of disability, if the member had performed less than twenty (20) years of service, or
 - b. the actual number of years of service performed by the member if the member had performed twenty (20) or more years of service;
3. Multiplied by a final average salary equal to:
 - a. the salary which the member would have received pursuant to statutory salary schedules in effect upon the date of the disability for twenty (20) years of service prior to disability. The final average salary for a member who performed less than twenty (20) years of service prior to disability 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 disability 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 disability, 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 disability, whichever final average salary amount would be greater, or
 - b. the actual final average salary of the member if the member had performed twenty (20) or more years of service prior to disability†.

If such member participates in the Oklahoma Law Enforcement Deferred Option Plan pursuant to Section 2-305.2 of this title, such member's disability pension provided pursuant to this subsection shall be adjusted as provided in Section 2-305.2 of this title to account for such member's participation in the Oklahoma Law Enforcement Deferred Option Plan.

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.

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.

I. For the purpose of determining the member's disability under subsection E, F or G of this section, 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 the member's 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 or her regular duties or an alternate occupation or service covered by the System after a normal recuperation period. 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 or her rights and claims under this act.

J. The disability benefit under this section shall be for the lifetime of the member unless such member is found no longer disabled pursuant to subsection I of this section. Such member shall not be entitled to the retirement benefit pursuant to subsection A of this section unless such member returns to active duty and is eligible for a retirement benefit as provided in subsection A of this section.

K. At the postoffer, preemployment physical examination required under paragraph 6 of Section 2-300 of this title, the physician selected by the Board shall determine the extent to which a new member is disabled. If a member is determined to be partially disabled, the physician shall assign a percentage of disability to

such partial disability. If such member then becomes entitled to a disability benefit under either subsection E or subsection G of this section, the benefit payable shall be reduced by the percentage which such member was determined to be disabled at the postoffer, preemployment physical unless the Board makes a determination that the initially determined percentage of disability at the preemployment physical examination is unrelated to the reason for the disability currently sought pursuant to subsection E or subsection G of this section. Upon employment, the member shall disclose to the Board any disability payments received from any source. The amount of disability to be paid to any member cannot exceed one hundred percent (100%) disability from all sources. The provisions of this subsection shall apply only to members whose effective date of membership is on or after July 1, 2000.

L. In addition to the pension provided for under subsection F of this section, if said member has 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, Four Hundred Dollars (\$400.00) a month shall be paid from said Fund for the support of each surviving child to the member or person having the care and custody of such children 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.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 2-305.2, as last amended by Section 33 of Enrolled House Bill No. 2725 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 2-305.2 A. In lieu of terminating employment and accepting a service retirement pension pursuant to Section 2-305 of this title, any member of the Oklahoma Law Enforcement Retirement System who has not less than twenty (20) years of ~~creditable~~ participating service and who is eligible to receive a service retirement pension may elect to participate in the Oklahoma Law Enforcement Deferred Option Plan and defer the receipts of benefits in accordance with the provisions of this section.

B. For purposes of this section, ~~creditable~~ participating service shall include service credit ~~reciprocally~~ recognized pursuant to paragraphs (c) and (d) of Section 2-300 et seq. 2-307, and Sections 2-309.1, 2-309.2, 2-309.3, 2-309.4, 2-309.5, 2-309.6 and 2-309.7 of this title but for eligibility purposes only.

C. The duration of participation in the Oklahoma Law Enforcement Deferred Option Plan for a member shall not exceed five (5) years. Participation in the Oklahoma Law Enforcement Deferred Option Plan must begin the first day of a month and end on the last day of the month. At the conclusion of a member's participation in the Oklahoma Law Enforcement Deferred Option Plan, the member shall terminate employment as a member of the Oklahoma Law Enforcement Retirement System, and shall start receiving the member's accrued monthly retirement benefit from the System. Such a member may

continue to receive in-service distributions of such member's accrued monthly retirement benefit from the System if the member is reemployed by a state agency only if such reemployment is in a position not covered under the System.

D. When a member begins participation in the Oklahoma Law Enforcement Deferred Option Plan, the contribution of the member shall cease. The employer contributions shall continue to be paid in accordance with Section 2-304 of this title. Employer contributions for members who elect the Oklahoma Law Enforcement Deferred Option Plan shall be credited equally to the Oklahoma Law Enforcement Retirement System and to the member's Oklahoma Law Enforcement Deferred Option Plan account. The monthly retirement benefits that would have been payable had the member elected to cease employment and receive a service retirement shall be paid into the member's Oklahoma Law Enforcement Deferred Option Plan account.

E. 1. A member who participates in this plan shall be eligible to receive cost of living increases.

2. A member who participates in this plan shall earn interest at a rate of two percentage points below the rate of return of the investment portfolio of the System, but no less than the actuarial assumed interest rate as certified by the actuary in the yearly evaluation report of the actuary. The interest shall be credited to the individual account balance of the member on an annual basis.

F. A member in the Oklahoma Law Enforcement Deferred Option Plan shall receive, at the option of the member:

1. A lump-sum payment from the account equal to the option account balance of the member, payable to the member;

2. A lump-sum payment from the account equal to the option account balance of the member, payable to the annuity provider which shall be selected by the member as a result of the research and investigation of the member; or

3. Any other method of payment if approved by the Board.

If a member meets the definition of disability as defined in paragraph 11 of Section 2-300 of this title by direct reason of the performance of the member's duties, the payment from the account shall be an in-line-of-duty disability payment.

G. If the member dies during the period of participation in the Oklahoma Law Enforcement Deferred Option Plan, a lump-sum payment equal to the account balance of the member shall be paid ~~in accordance with Section 2-306.3 of this title~~ to the designated beneficiary as defined in paragraph 17 of Section 2-300 of this title, or if there is no designated beneficiary or the designated beneficiary predeceases the member, to the estate of the member. If such member was receiving, or eligible to receive, an in-line-of-duty disability pension pursuant to subsection E or F of Section 2-305 of this title at the time of death, payment of the account balance shall be an in-line-of-duty disability payment.

H. In lieu of participating in the Oklahoma Law Enforcement Deferred Option Plan pursuant to subsections A, B, C, D, E and F of this section, a member may elect to participate in the Oklahoma Law Enforcement Deferred Option Plan pursuant to this subsection as follows:

1. For purposes of this subsection, the following definitions shall apply:

- a. "back drop date" means the date selected by the member which is up to five (5) years before the member elects to participate in the Oklahoma Law Enforcement Deferred Option Plan, but not before the date at which the member completes twenty (20) years of ~~credited~~ participating service,
- b. "termination date" means the date the member elects to participate in the Oklahoma Law Enforcement Deferred Option Plan pursuant to this subsection and the date the member terminates employment and starts receiving the member's accrued monthly retirement benefit from the System. Such termination has at all times included reemployment of a member by a state agency, but only in a position not covered under the System,
- c. "earlier attained ~~credited~~ participating service" means the participating ~~credited~~ service earned by a member as of the back drop date. Earlier attained ~~credited~~ participating service cannot be reduced to less than twenty (20) years of ~~credited~~ participating service, and
- d. "deferred benefit balance" means all retirement benefits that would have been paid from the back drop date to the termination date, and one half (1/2) of the employer contributions from the back drop date to the termination date, with interest based on how the benefit would have accumulated on a compound annual basis as if the member had participated in the Oklahoma Law Enforcement Deferred Option Plan pursuant to subsections A, B, C, D and E of this section from the back drop date to the termination date;

2. At the termination date, a member's monthly pension benefit shall be determined based on the earlier attained ~~credited~~ participating service and on the final average salary as of the back drop date. The member's individual deferred option account shall be credited with an amount equal to the deferred benefit balance; the member shall terminate employment and shall start receiving the member's accrued monthly retirement benefit from the System. The member shall, upon application filed with the Board, be refunded from the fund an amount equal to the accumulated contributions the member made to the fund from the back drop date to the termination date, but excluding any interest. Such termination has at all times included reemployment of a member by a state agency, but only in a position not covered under the System. The provisions of

subsections B, C, E, F and G of this section shall apply to this subsection; and

3. A member may participate in the Oklahoma Law Enforcement Deferred Option Plan pursuant to this subsection even if the member has elected to participate in the Oklahoma Law Enforcement Deferred Option Plan pursuant to subsections A, B, C, D, E and F of this section. Such a member may select a back drop date which is up to five (5) years prior to the termination date, but not before the date at which the member completes twenty (20) years of ~~credited~~ participating service. Such a member's participation in the Oklahoma Law Enforcement Deferred Option Plan may not exceed five (5) years when combined with such a member's prior period of participation in the Oklahoma Law Enforcement Deferred Option Plan. The provisions of subsections B, C, E, F and G of this section shall apply to this subsection.

SECTION 4. AMENDATORY 47 O.S. 2001, Section 2-306, as amended by Section 5, Chapter 399, O.S.L. 2002 (47 O.S. Supp. 2003, 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:

- 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 E 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~~ receiving, or eligible to receive, a disability benefit pursuant to subsection E or F of Section 2-305 of this title, an amount equal to the member's monthly payments pursuant to subsection E or F of Section 2-305 of this title; or

5. If said member was receiving, or eligible to receive, a disability benefit pursuant to subsection G of Section 2-305 of this title, an amount equal to the member's monthly payments pursuant to subsection G of Section 2-305 of this title; or

6. 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;

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, 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, Four Hundred Dollars (\$400.00) 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 5. AMENDATORY 47 O.S. 2001, Section 2-306.3, as amended by Section 4, Chapter 352, O.S.L. 2002 (47 O.S. Supp. 2003, Section 2-306.3), is amended to read as follows:

Section 2-306.3 Upon the death of an active or retired member, the Oklahoma Law Enforcement Retirement System shall pay to the designated beneficiary of the member as defined in paragraph 17 of Section 2-300 of this title or if there is no such designated beneficiary or if ~~the~~ such designated beneficiary predeceases the member, to the estate of the member, the sum of Four Thousand Dollars (\$4,000.00) as a death benefit for those active or retired members who died prior to July 1, 1999. For those active or retired members who die on or after July 1, 1999, the sum shall be Five Thousand Dollars (\$5,000.00). The benefit payable pursuant to this section shall be deemed, for purposes of federal income taxation, as life insurance proceeds and not as a death benefit if the Internal Revenue Service approves this provision pursuant to a private letter ruling request which shall be submitted by the board of trustees of the System for that purpose.

SECTION 6. AMENDATORY 47 O.S. 2001, Section 2-307.5, as amended by Section 12, Chapter 406, O.S.L. 2003 (47 O.S. Supp. 2003, Section 2-307.5), is amended to read as follows:

Section 2-307.5 A. The Board shall adopt rules for computation of the purchase price for transferred credited service. These rules shall base the purchase price for each year purchased on the actuarial cost of the incremental projected benefits to be purchased. The purchase price shall represent the present value of the incremental projected benefits discounted according to the member's age at the time of purchase. Incremental projected benefits shall be the difference between the projected benefit said member would receive without purchasing the transferred credited service and the projected benefit after purchase of the transferred credited service computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board for purposes of preparing the annual actuarial evaluation.

B. In the event that the member is unable to pay the purchase price provided for in this section by the due date, the Board shall permit the members to amortize the purchase price over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board for

investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance. Notwithstanding anything herein to the contrary, effective January 1, 2002, lump-sum payments for transferred credited service purchases may be made by trustee-to-trustee transfers from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan. Members making installment payments on or after January 1, 2002, shall have the option of making a cash lump-sum payments for the balance of the remaining payments payment of the actuarial purchase price with interest due through the date of payment by trustee-to-trustee transfers from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan. The Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

SECTION 7. AMENDATORY 47 O.S. 2001, Section 2-307.7, as amended by Section 13, Chapter 406, O.S.L. 2003 (47 O.S. Supp. 2003, Section 2-307.7), is amended to read as follows:

Section 2-307.7 A. A member of the Oklahoma Law Enforcement Retirement System who has ten (10) or more years of full-time-equivalent employment with a participating employer, and who is terminated by a state agency or other state governmental entity because the member's position is eliminated through a reduction-in-force after July 1, 1998, and is within three (3) years of a normal retirement date as defined in paragraph 7 of Section 2-300 of this title may purchase termination credit of a period not to exceed the lesser of three (3) years or the number of years or months or both years and months required in order for the member to reach normal retirement date in the same period of time and with the same service credit which would have otherwise accrued if the termination had not occurred.

B. In order to receive the termination credit authorized by this section, the member shall be required to file an election with the System indicating an intent to purchase the credit. The member shall have a period of six (6) months from the date the member is terminated as described in subsection A of this section within which to file the election.

C. To purchase the termination credit, the member shall be required to make payment to the System of an amount equal to both the employer and employee contributions which would have been paid to the System based upon the actual paid base salary as defined in paragraph 8 of Section 2-300 of this title, which was received by the member in the last full month that the member was employed by the state agency or other state governmental entity multiplied by the number of months required in order for the combination of the participating service and member's age to equal the amount required

for the member to reach normal retirement date with an unreduced benefit as if the member had not been terminated.

D. The member must make full payment to the System of all required contribution amounts within sixty (60) days of filing the election to purchase the credit. The member must vest his or her benefits with a declared future retirement date as of the first month the member is eligible for normal retirement. Failure to make the full payment to the System of the required contribution amounts, for any reason, within the time prescribed, shall result in cancellation of the election provided pursuant to this section, and return of the purchase amount tendered, without interest. Notwithstanding anything herein to the contrary, effective January 1, 2002, lump-sum payments for termination credit purchases may be made by trustee-to-trustee transfers from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan. ~~Members making installment payments on or after January 1, 2002, shall have the option of making lump-sum payments for all or part of the balance of the remaining payments by trustee-to-trustee transfers from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan.~~

E. Purchased termination credit may only be used as service credit to qualify the member for normal retirement.

F. If the member chooses to retire at any time prior to the member's normal retirement date or returns to employment with a participating employer of the System at any time prior to retirement, the purchase of termination credit pursuant to this section shall be void and the System will return the purchase amount tendered, without interest.

G. In the event of the death of the member prior to retirement, the member's spouse, if otherwise eligible for benefits pursuant to Section 2-306 of this title, may elect to receive benefits which include the termination credit on the member's declared future retirement date, or may elect to receive a return of the purchase amount tendered, without interest.

SECTION 8. REPEALER 47 O.S. 2001, Section 2-310, is hereby repealed.

SECTION 9. This act shall become effective July 1, 2004.

SECTION 10. 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.

Passed the Senate the 25th day of May, 2004.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of May, 2004.

Presiding Officer of the House
of Representatives