

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 695

6 By: Corn of the Senate

7 and

8 Hickman of the House

9 COMMITTEE SUBSTITUTE

10 An Act relating to public retirement systems;
11 amending 11 O.S. 2001, Section 50-113, 50-114, as
12 last amended by Section 2, Chapter 137, O.S.L. 2005,
13 50-114.2, as amended by Section 8, Chapter 137,
14 O.S.L. 2003, 50-115, as last amended by Section 3,
15 Chapter 137, O.S.L. 2005 (11 O.S. Supp. 2006,
16 Sections 50-114, 50-114.2 and 50-115), which relate
17 to the Oklahoma Police Pension and Retirement System;
18 modifying provisions related to certain deductions;
19 modifying provision related to certain processing
20 fee; modifying provisions related to certain
21 contracts; authorizing payments to certain providers
22 for qualified health insurance premiums; modifying
23 provisions related to distributions; modifying
24 definitions; authorizing direct transfers for certain
lump-sum distributions; imposing conditions with
respect to transfers; providing for promulgation of
administrative rules; requiring written elections for
certain direct payments; prescribing procedures
related thereto; defining terms; providing for
promulgation of administrative rules; amending 47
O.S. 2001, Sections 2-305, as last amended by Section
19, Chapter 46, 2nd Extraordinary Session, O.S.L.
2006, 2-305.1A, as amended by Section 5, Chapter 406,
O.S.L. 2003 (47 O.S. Supp. 2006, Sections 2-305 and
2-305.1A), which relate to the Oklahoma Law
Enforcement Retirement System; authorizing payments
to certain providers for qualified health insurance
premiums; modifying provisions related to

1 distributions; modifying definitions; authorizing
2 direct transfers of certain lump-sum distributions;
3 imposing conditions with respect to transfers;
4 providing for promulgation of administrative rules;
5 requiring written elections for certain direct
6 payments; prescribing procedures related thereto;
7 defining terms; providing for promulgation of
8 administrative rules; providing for codification;
9 providing an effective date; and declaring an
10 emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 50-113, is
amended to read as follows:

Section 50-113. All the funds in the System shall be used only
for the following purposes:

1. For investments as authorized by law;
2. For the payment of allowances to injured and disabled
members of any participating municipality;
3. For the payment of pensions for long service to retired
members of any participating municipality;
4. For the payment of a pension to any beneficiary of any
member eligible for a pension;
5. For the payment of any professional services deemed
necessary by the State Board;
6. For the payment of warrant deductions upon proper
authorization given by the member to the Board from which the member

1 or beneficiary is currently receiving retirement benefits for any
2 insurance premium due an insurance organization ~~with a minimum~~
3 ~~participation of ten Oklahoma Police Pension and Retirement System~~
4 ~~members~~ for life, accident, and health insurance.

5 The System has no responsibility for the marketing, enrolling or
6 administration of the products for which warrant deductions are
7 authorized under this paragraph, ~~but shall retain a processing fee~~
8 ~~of two percent (2%) of the gross deductions for the products.~~

9 Approval of a warrant deduction for any insurance organization,
10 line of coverage or policy shall not be construed as an assumption
11 of liability, for the terms of the policy or the performance of the
12 insurance organization by the Oklahoma Police Pension and Retirement
13 System. ~~Contracts for such insurance shall be in all respects~~
14 ~~subject to the insurance laws of this state, and shall be~~
15 ~~enforceable solely pursuant to such laws;~~

16 7. For the payment of membership dues in a statewide
17 association limited to Oklahoma Police Pension and Retirement System
18 members with a minimum membership of one thousand dues-paying
19 members upon proper authorization given by the member. ~~The System~~
20 ~~shall retain a processing fee of two percent (2%) of the gross~~
21 ~~deductions made pursuant to this paragraph; and~~

22 8. Any other purposes authorized by law.
23 Such payments in any event shall not exceed the limits provided in
24 this article.

1 SECTION 2. AMENDATORY 11 O.S. 2001, Section 50-114, as
2 last amended by Section 2, Chapter 137, O.S.L. 2005 (11 O.S. Supp.
3 2006, Section 50-114), is amended to read as follows:

4 Section 50-114. A. The State Board is hereby authorized to pay
5 out of funds in the System a monthly service pension to any member
6 eligible as hereinafter provided, not exceeding in any event the
7 amount of money in such funds and not exceeding in any event the
8 accrued retirement benefit for such member, except as provided for
9 herein. In order for a member to be eligible for such service
10 pension the following requirements must be complied with:

11 1. The member's service with the police department for any
12 participating municipality must have ceased; however, a member may
13 be subsequently reemployed in the position of police chief pursuant
14 to subsection C of Section 50-112 of this title;

15 2. The member must have reached the member's normal retirement
16 date; and

17 3. The member must have complied with any agreement as to
18 contributions by the member and other members to any funds of the
19 System where said agreement has been made as provided by this
20 article; provided, that should a retired member receive disability
21 benefits as provided in this and other sections of this article, the
22 time the retired member is receiving said disability benefits shall
23 count as time on active service if the retired member should be
24 recalled by the Chief of Police from said disability retirement. It

1 shall be necessary before said time shall be counted toward
2 retirement that the retired member make the same contribution as the
3 member would have otherwise made if on active service for the time
4 the retired member was disabled.

5 B. Any member complying with all requirements of this article,
6 who reaches normal retirement date, upon application, shall be
7 retired at the accrued retirement benefit. When a member has served
8 for the necessary number of years and is otherwise eligible, as
9 provided in this article, if such member is discharged without cause
10 by the participating municipality, the member shall be eligible for
11 a pension.

12 C. Effective July 1, 1989, in no event shall commencement of
13 distribution of the accrued retirement benefit of a member be
14 delayed beyond April 1 of the calendar year following the later of:

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

17 2. The actual retirement date of the member.

18 For distributions made for calendar years beginning on or after
19 January 1, 2001 through December 31, 2004, the System shall apply
20 the minimum distribution requirements and incidental benefit
21 requirements of Section 401(a)(9) of the Internal Revenue Code of
22 1986, as amended, in accordance with the regulations under Section
23 401(a)(9) of the Internal Revenue Code of 1986, as amended, which
24 were proposed on January 17, 2001, notwithstanding any provision of

1 the System to the contrary. For distributions made for calendar
2 years beginning on or after January 1, 2005, the System shall apply
3 the minimum distribution incidental benefit requirements, incidental
4 benefit requirements, and minimum distribution requirements of
5 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
6 in accordance with the final regulations under Section 401(a)(9) of
7 the Internal Revenue Code of 1986, as amended, which were issued in
8 April 2002 and June 2004, notwithstanding any provision of the
9 System to the contrary.

10 D. In the event of the death of any member who has been awarded
11 a retirement benefit or is eligible therefor as provided in this
12 section, such member's beneficiaries shall be paid such retirement
13 benefit. The remaining portion of the member's retirement benefit
14 shall be distributed to the beneficiaries at least as rapidly as
15 under the method of distribution to the member. Effective March 1,
16 1997, if a member to whom a retirement benefit has been awarded or
17 who is eligible therefor dies prior to the date as of which the
18 total amount of retirement benefit paid equals the total amount of
19 the employee contributions paid by or on behalf of the member and
20 the member does not have a surviving beneficiary, the total benefits
21 paid as of the date of the member's death shall be subtracted from
22 the accumulated employee contribution amount and the balance, if
23 greater than zero (0), shall be paid to the member's estate.

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1 E. The State Board may review and affirm a member's request for
2 retirement benefits prior to the member's normal retirement date
3 provided that no retirement benefits are paid prior to the normal
4 retirement date.

5 F. A member retired under the provisions of this article may
6 apply to the State Board to have the member's retirement benefits
7 set aside and may make application for disability benefits. Upon
8 approval of the disability benefits, the member would become subject
9 to all provisions of this article pertaining to disability
10 retirement.

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

18 H. If the requirements of Section 5 of this act are satisfied,
19 a member who, by reason of attainment of normal retirement date or
20 age, is separated from service as a public safety officer with the
21 member's participating municipality, may elect to have payment made
22 directly to the provider for qualified health insurance premiums by
23 deduction from his or her monthly pension payment, after December
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1 31, 2006, in accordance with Section 402(l) of the Internal Revenue
2 Code of 1986, as amended.

3 SECTION 3. AMENDATORY 11 O.S. 2001, Section 50-114.2, as
4 amended by Section 8, Chapter 137, O.S.L. 2003 (11 O.S. Supp. 2006,
5 Section 50-114.2), is amended to read as follows:

6 Section 50-114.2 A. This section applies to distributions made
7 on or after January 1, 1993. Notwithstanding any provision of the
8 System to the contrary that would otherwise limit a Distributee's
9 election hereunder, a Distributee may elect, at the time and in the
10 manner prescribed by the State Board, to have any portion of an
11 Eligible Rollover Distribution paid directly to an Eligible
12 Retirement Plan specified by the Distributee in a Direct Rollover.

13 B. For purposes of this section, the following definitions
14 shall apply:

15 1. "Eligible Rollover Distribution" means any distribution of
16 all or any portion of the balance to the credit of the Distributee,
17 except that an Eligible Rollover Distribution does not include: any
18 distribution that is one of a series of substantially equal periodic
19 payments (not less frequently than annually) made for the life (or
20 life expectancy) of the Distributee or the joint lives (or life
21 expectancies) of the Distributee and the Distributee's designated
22 beneficiary, or for a specified period of ten (10) years or more;
23 any distribution to the extent such distribution is required under
24 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;

1 and the portion of any distribution that is not includable in gross
2 income; provided, however, that, effective January 1, 2002, a
3 portion of a distribution shall not fail to be an Eligible Rollover
4 Distribution merely because the portion consists of after-tax member
5 contributions which are not includable in gross income. However,
6 such portion may be paid only:

7 a. from January 1, 2002, through December 31, 2006, to:

8 (1) an individual retirement account or annuity

9 described in Section 408(a) or (b) of the

10 Internal Revenue Code of 1986, as amended, or ~~to~~

11 (2) a qualified trust which is part of a defined

12 contribution plan described in Section 401(a) or

13 403(a) of the Internal Revenue Code of 1986, as

14 amended, ~~that~~ and which agrees to separately

15 account for amounts so transferred, including

16 ~~separate~~ separately accounting for the portion of

17 such distribution which is includable in gross

18 income and the portion of such distribution which

19 is not so includable, and

20 b. on or after January 1, 2007, to:

21 (1) an individual retirement account or annuity

22 described in Section 408(a) or (b) of the

23 Internal Revenue Code of 1986, as amended, or

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1 (2) a qualified trust described in Section 401(a) or
2 403(a) of the Internal Revenue Code of 1986, as
3 amended, or an annuity contract described in
4 Section 403(b) of the Internal Revenue Code of
5 1986, as amended, and such trust or annuity
6 contract provides for separate accounting for
7 amounts so transferred (and earnings thereon),
8 including separately accounting for the portion
9 of such distribution which is includable in gross
10 income and the portion of such distribution which
11 is not so includable;

12 2. "Eligible Retirement Plan" means an individual retirement
13 account described in Section 408(a) of the Internal Revenue Code of
14 1986, as amended, an individual retirement annuity described in
15 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
16 annuity plan described in Section 403(a) of the Internal Revenue
17 Code of 1986, as amended, or a qualified trust described in Section
18 401(a) of the Internal Revenue Code of 1986, as amended, that
19 accepts the Distributee's Eligible Rollover Distribution. Effective
20 January 1, 2002, an Eligible Retirement Plan shall also mean an
21 annuity contract described in Section 403(b) of the Internal Revenue
22 Code of 1986, as amended, and an eligible plan under Section 457(b)
23 of the Internal Revenue Code of 1986, as amended, which is
24 maintained by a state, political subdivision of a state, or any

1 agency or instrumentality of a state or political subdivision of a
2 state and which agrees to separately account for amounts transferred
3 into such plan from the System. Effective January 1, 2002, the
4 definition of Eligible Retirement Plan shall also apply in the case
5 of a distribution to a surviving spouse, or to a spouse or former
6 spouse who is the alternate payee pursuant to a qualified domestic
7 order as defined in subsection B of Section 50-124 of this title.
8 An Eligible Retirement Plan does not include a Roth IRA under
9 Section ~~408(a)~~ 408A of the Internal Revenue Code of 1986, as
10 amended;

11 3. "Distributee" means an employee or former employee. In
12 addition, effective June 7, 1993, the employee's or former
13 employee's surviving spouse and the employee's or former employee's
14 spouse or former spouse who is the alternate payee under a qualified
15 domestic order, as defined in subsection B of Section 50-124 of this
16 title, are Distributees with regard to the interest of the spouse or
17 the former spouse; and

18 4. "Direct Rollover" means a payment by the System to the
19 Eligible Retirement Plan specified by the Distributee.

20 C. At least thirty (30) days ~~and~~ before and, effective January
21 1, 2007, not more than ~~ninety (90)~~ one hundred eighty (180) days
22 before the date of distribution, the Distributee must be provided
23 with a notice of rights which satisfies Section 402(f) of the
24 Internal Revenue Code of 1986, as amended, as to rollover options

1 and tax effects. Such distribution may commence less than thirty
2 (30) days after the notice is given, provided that:

3 1. The State Board clearly informs the Distributee that the
4 Distributee has a right to a period of at least thirty (30) days
5 after receiving the notice to consider the decision of whether or
6 not to elect a distribution; and

7 2. The Distributee, after receiving the notice, affirmatively
8 elects a distribution.

9 SECTION 4. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 50-114.3 of Title 11, unless
11 there is created a duplication in numbering, reads as follows:

12 A. An individual who has been designated, pursuant to Section
13 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended, as
14 the beneficiary of a deceased member and who is not the surviving
15 spouse of the member, may elect, in accordance with Section
16 402(c)(11) of the Internal Revenue Code of 1986, as amended, and at
17 the time and in the manner prescribed by the State Board, to have a
18 direct trustee-to-trustee transfer of any portion of such
19 beneficiary's lump-sum distribution from the System after December
20 31, 2006, made to an individual retirement account or individual
21 retirement annuity (other than an endowment contract) described in
22 Section 408(a) or (b) of the Internal Revenue Code of 1986, as
23 amended (IRA). If such transfer is made, then:

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1 1. The transfer is treated as an eligible rollover distribution
2 for purposes of Section 402(c)(11) of the Internal Revenue Code of
3 1986, as amended;

4 2. The transferee IRA is treated as an inherited individual
5 retirement account or an inherited individual retirement annuity
6 (within the meaning of Section 408(d)(3)(C) of the Internal Revenue
7 Code of 1986, as amended); and

8 3. The required minimum distribution rules of Section
9 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue
10 Code of 1986, as amended, apply to the transferee IRA.

11 B. A trust maintained for the benefit of one or more designated
12 beneficiaries shall be treated in the same manner as a trust
13 designated beneficiary.

14 C. The State Board shall promulgate such rules as are necessary
15 to implement the provisions of this section.

16 SECTION 5. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 50-114.4 of Title 11, unless
18 there is created a duplication in numbering, reads as follows:

19 A. A member who is an eligible retired public safety officer
20 and who wishes to have direct payments made toward the member's
21 qualified health insurance premiums from the member's monthly
22 disability benefit or monthly pension payment must make a written
23 election in accordance with Section 402(1) of the Internal Revenue
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1 Code of 1986, as amended, on the form provided by the System, as
2 follows:

3 1. The election must be made after the member separates from
4 service as a public safety officer with the member's participating
5 municipality;

6 2. The election shall only apply to distributions from the
7 System after December 31, 2006, and to amounts not yet distributed
8 to the eligible retired public safety officer;

9 3. Direct payments for an eligible retired public safety
10 officer's qualified health insurance premiums can only be made from
11 the member's monthly disability benefit or monthly pension payment
12 from the System and cannot be made from the Deferred Option Plan;
13 and

14 4. The aggregate amount of the exclusion from an eligible
15 retired public safety officer's gross income is Three Thousand
16 Dollars (\$3,000.00) per calendar year.

17 B. As used in this section:

18 1. A "public safety officer" is a member serving a public
19 agency in an official capacity, with or without compensation, as a
20 law enforcement officer, firefighter, chaplain, or as a member of a
21 rescue squad or ambulance crew;

22 2. An "eligible retired public safety officer" is a member who,
23 by reason of disability or attainment of normal retirement date or
24

1 age, is separated from service as a public safety officer with the
2 member's participating municipality; and

3 3. "Qualified health insurance premiums" are for coverage for
4 the eligible retired public safety officer, the eligible retired
5 public safety officer's spouse, and dependents by an accident or
6 health insurance plan or a qualified long-term care insurance
7 contract. The health plan does not have to be sponsored by the
8 eligible retired public safety officer's former participating
9 municipality.

10 C. The State Board shall promulgate such rules as are necessary
11 to implement the provisions of this section.

12 SECTION 6. AMENDATORY 11 O.S. 2001, Section 50-115, as
13 last amended by Section 3, Chapter 137, O.S.L. 2005 (11 O.S. Supp.
14 2006, Section 50-115), is amended to read as follows:

15 Section 50-115. A. The State Board is authorized to pay a
16 disability benefit to a member of the System or a pension to the
17 beneficiaries of such member eligible as hereinafter provided, not
18 exceeding the accrued retirement benefit of the member, except as
19 otherwise provided in this article. Such disability benefit shall
20 be payable immediately upon determination of eligibility. Any
21 preexisting condition identified at the time of any initial or
22 subsequent membership shall be used to offset the percentage of
23 impairment to the whole person in determining any disability
24 benefit. Once the initial disability benefit has been awarded by

1 the Board on the basis of the percentage of impairment to the whole
2 person, the member shall have no further recourse to increase the
3 awarded percentage of impairment.

4 B. In order for any member to be eligible for any disability
5 benefit, or the member's beneficiaries to be eligible for a pension,
6 the member must have complied with any agreement as to contributions
7 by the member and other members to any funds of the System where
8 said agreement has been made as provided by this article; and the
9 State Board must find:

10 1. That the member incurred a permanent total disability or a
11 permanent partial disability or died while in, and in consequence
12 of, the performance of duty as an officer; or

13 2. That such member has served ten (10) years and incurred a
14 permanent total disability or a permanent partial disability or has
15 died from any cause.

16 C. In the event of the death of any member who has been awarded
17 a disability benefit or is eligible therefor as provided in this
18 article, the member's beneficiary shall be paid the benefit.

19 D. As of the date of determination by the State Board that a
20 member is physically or mentally disabled and that the disability is
21 permanent and partial or permanent and total as was incurred while
22 in, and in consequence of, the performance or duty as an officer,
23 the member shall be awarded a disability benefit on the basis of the
24 percentage of impairment to the whole person, as defined by the most

1 current standards of the impairment as outlined in the "American
2 Medical Association's Guides to the Evaluation of Permanent
3 Impairment," as provided in the following table:

4	1% to 49% impairment to whole person =	50% of the normal
5		disability benefit
6	50% to 74% impairment to whole person =	75% of the normal
7		disability benefit
8	75% to 100% impairment to whole person =	100% of the normal
9		disability benefit.

10 E. If the participating municipality denies a disabled member
11 the option of continuing employment instead of retiring on a
12 disability pension, then the burden of proof rests with the
13 participating municipality to show cause to the State Board that
14 there is no position as a sworn officer within the police department
15 of that municipality which the member can fill.

16 F. Upon determination by the State Board that a member is
17 physically or mentally disabled and that the disability is permanent
18 and total and that the member has completed ten (10) years of
19 credited service and is disabled by any cause, the member shall
20 receive a disability benefit on the basis of the member's accrued
21 retirement benefit.

22 G. Upon determination by the State Board that a member is
23 physically or mentally disabled and that the disability is permanent
24 and partial and that the member has completed ten (10) years of

1 credited service as a member and is disabled from any cause, the
2 member shall be awarded a disability benefit on the basis of the
3 member's years of credited service as a member and the percentage of
4 impairment to the whole person, as defined by the most current
5 standards of the impairment as outlined in the "American Medical
6 Association's Guides to the Evaluation of Permanent Impairment", on
7 the basis of the following table:

8 1% to 24% impaired = 25% of accrued retirement benefit

9 25% to 49% impaired = 50% of accrued retirement benefit

10 50% to 74% impaired = 75% of accrued retirement benefit

11 75% to 99% impaired = 90% of accrued retirement benefit.

12 H. Before making a finding as to the disability of a member,
13 the State Board shall require that, if the member is able, the
14 member shall make a certificate as to the disability which shall be
15 subscribed and sworn to by the member. It shall also require a
16 certificate as to such disability to be made by some physician
17 licensed to practice in this state as selected by the State Board.
18 The State Board may require other evidence of disability before
19 making the disability benefit. The salary of any such member shall
20 continue while the member is so necessarily confined to such
21 hospital bed or home and necessarily requires medical care or
22 professional nursing on account of such sickness or disability for a
23 period of not more than six (6) months, after which said period the
24 other provisions of this article may apply. The State Board, in

1 making disability benefits, shall act upon the written request of
2 the member or without such request, if it deem it for the good of
3 the police department. Any disability benefits shall cease when the
4 member receiving same shall be restored to active service at a
5 salary not less than three-fourths (3/4) of the member's average
6 monthly salary.

7 I. Any member of a police department of any municipality who,
8 in the line of duty, has been exposed to hazardous substances,
9 including but not limited to chemicals used in the manufacture of a
10 controlled dangerous substance or chemicals resulting from the
11 manufacture of a controlled dangerous substance, or to blood-borne
12 pathogens and who is later disabled from a condition that was the
13 result of such exposure and that was not revealed by the physical
14 examination passed by the member upon entry into the System shall be
15 presumed to have incurred such disability while performing the
16 officer's duties unless the contrary is shown by competent evidence.
17 The presumption created by this subsection shall have no application
18 whatever to any workers' compensation claim or claims, and it shall
19 not be applied or be relied upon in any way in workers' compensation
20 proceedings. All compensation or benefits due to any member
21 pursuant to the presumption created by this subsection shall be paid
22 solely by the system.

23 J. If the requirements of Section 5 of this act are satisfied,
24 a member who, by reason of disability, is separated from service as

1 a public safety officer with the member's participating
2 municipality, may elect to have payment made directly to the
3 provider for qualified health insurance premiums by deduction from
4 his or her monthly disability benefit, after December 31, 2006, in
5 accordance with Section 402(1) of the Internal Revenue Code of 1986,
6 as amended.

7 SECTION 7. AMENDATORY 47 O.S. 2001, Section 2-305, as
8 last amended by Section 19, Chapter 46, 2nd Extraordinary Session,
9 O.S.L. 2006 (47 O.S. Supp. 2006, Section 2-305), is amended to read
10 as follows:

11 Section 2-305. A. Except as otherwise provided in this title,
12 at any time after attaining normal retirement date, any member of
13 the Oklahoma Law Enforcement Retirement System upon application for
14 unreduced retirement benefits made and approved, may retire, and,
15 during the remainder of the member's lifetime, receive annual
16 retirement pay, payable in equal monthly payments, equal to two and
17 one-half percent (2 1/2%) of the final average salary times years of
18 credited service. If such retired member is reemployed by a state
19 agency in a position which is not covered by the System, such
20 retired member shall continue to receive in-service distributions
21 from the System. Prior to September 19, 2002, if such retired
22 member was reemployed by a state agency in a position which is
23 covered by the System, such member shall continue to receive in-
24 service distributions from the System and shall not accrue any

1 further credited service. If such a member is reemployed by a state
2 agency in a position which is covered by the System on or after
3 September 19, 2002, such member's monthly retirement payments shall
4 be suspended until such member retires and is not reemployed by a
5 state agency in a position which is covered by the System. No
6 member shall be required to retire for length of service unless and
7 until the member shall have reached the age of sixty (60) years, but
8 any member of the System who shall have reached the age of sixty
9 (60) years and who shall also have completed twenty (20) years or
10 more of credited service shall be retired by the Board unless, after
11 application to the Board and such examination and showing as the
12 Board may deem proper, the Board shall determine that such member of
13 the System is physically and mentally able to continue to perform
14 duties or service as required of a member. Unless such application
15 be made by a member of the System within thirty (30) days after
16 reaching the age of sixty (60) years and completing twenty (20)
17 years or more of credited service or if, after such application and
18 examination, the Board shall determine that such member of the
19 System is not physically or mentally able to continue to perform
20 services as required of the employer, the Board shall by resolution
21 order his or her retirement with retirement pay for length of
22 service as provided herein.

23 B. Beginning July 1, 1994, members who retired or were eligible
24 to retire prior to July 1, 1980 or their surviving spouses shall

1 receive annual retirement pay, payable in equal monthly payments,
2 equal to the greater of their current retirement pay, or two and
3 one-half percent (2 1/2%) of the actual paid gross salary being
4 currently paid to a highway patrol officer, at the time each such
5 monthly retirement payment is made, multiplied by the retired
6 member's years of credited service.

7 C. Members of the System whose salary is set by statute who
8 have retired after completion of the mandatory twenty (20) years of
9 service, and those members with statutory salaries who retire after
10 reaching the mandatory twenty-year retirement, shall receive an
11 annual retirement pay, payable in equal monthly installments, based
12 upon the greater of either:

13 1. The top base pay currently paid to an active member, at the
14 time each such monthly retirement payment is made, multiplied by two
15 and one-half percent (2 1/2%) multiplied by the number of years of
16 credited service and fraction thereof for the following positions:

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

23 2. The member's final average salary as set forth in paragraph
24 9 of Section 2-300 of this title, multiplied by two and one-half

1 percent (2 1/2%), and multiplied by the number of years of credited
2 service and fraction thereof.

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

6 D. Other members of the System whose retirement benefit is not
7 otherwise prescribed by this section who have retired after
8 completion of the mandatory twenty (20) years of service, and those
9 members who retire after reaching the mandatory twenty-year
10 retirement, shall receive an annual retirement pay, payable in equal
11 monthly payments, based upon the greater of either:

12 1. The actual average salary currently paid to the highest
13 nonsupervisory position in the participating agency, at the time
14 each such monthly payment is made, multiplied by two and one-half
15 percent (2 1/2%), multiplied by the number of years of credited
16 service and fraction thereof for the following positions:

- 17 a. Alcoholic Beverage Laws Enforcement Commission—ABLE
18 Commission Agent III,
- 19 b. Oklahoma State Bureau of Narcotics and Dangerous Drugs
20 Control—Narcotics Agent III,
- 21 c. Oklahoma Tourism and Recreation Department—Park Ranger
22 II,
- 23 d. Oklahoma State Board of Pharmacy—Pharmacy Inspector,
- 24 e. University of Oklahoma—Police Officer,

1 f. Oklahoma State University—Police Officer; or

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

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

13 E. A member who meets the definition of disability as defined
14 in paragraph 11 of Section 2-300 of this title by direct reason of
15 the performance of the member's duties as an officer shall receive a
16 monthly benefit equal to the greater of fifty percent (50%) of final
17 average salary or two and one-half percent (2 1/2%) of final average
18 salary multiplied by the number of years of the member's credited
19 service. If such member participates in the Oklahoma Law
20 Enforcement Deferred Option Plan pursuant to Section 2-305.2 of this
21 title, then such member's disability pension provided pursuant to
22 this subsection shall be reduced to account for such member's
23 participation in the Oklahoma Law Enforcement Deferred Option Plan.

1 F. A member who meets the definition of disability as defined
2 in paragraph 11 of Section 2-300 of this title and whose disability
3 is by means of personal and traumatic injury of a catastrophic
4 nature and in the line of duty, shall receive a monthly benefit
5 equal to:

6 1. Two and one-half percent (2 1/2%);

7 2. Multiplied by:

8 a. twenty (20) years of service, regardless of the actual
9 number of years of credited service performed by the
10 member prior to the date of disability, if the member
11 had performed less than twenty (20) years of service,
12 or

13 b. the actual number of years of service performed by the
14 member if the member had performed twenty (20) or more
15 years of service;

16 3. Multiplied by a final average salary equal to:

17 a. the salary which the member would have received
18 pursuant to statutory salary schedules in effect upon
19 the date of the disability for twenty (20) years of
20 service prior to disability. The final average salary
21 for a member who performed less than twenty (20) years
22 of service prior to disability shall be computed
23 assuming that the member was paid the highest salary
24 allowable pursuant to the law in effect at the time of

1 the member's disability based upon twenty (20) years
2 of service and with an assumption that the member was
3 eligible for any and all increases in pay based upon
4 rank during the entire period. If the salary of a
5 member is not prescribed by a specific salary schedule
6 upon the date of the member's disability, the final
7 average salary for the member shall be computed by the
8 member's actual final average salary or the highest
9 median salary amount for a member whose salary was
10 prescribed by a specific salary schedule upon the date
11 of the member's disability, whichever final average
12 salary amount would be greater, or

- 13 b. the actual final average salary of the member if the
14 member had performed twenty (20) or more years of
15 service prior to disability.

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

22 G. A member who meets the definition of disability as defined
23 in Section 2-300 of this title and whose disability occurred prior
24 to the member's normal retirement date but after completing three

1 (3) years of vesting service and not by reason of the performance of
2 the member's duties as an officer or as a result of the member's
3 willful negligence shall receive a monthly benefit equal to two and
4 one-half percent (2 1/2%) of final average salary multiplied by the
5 number of years of the member's credited service.

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

11 I. For the purpose of determining the member's disability under
12 subsection E, F or G of this section, the member shall be required
13 by the Board to be examined by a minimum of two recognized
14 physicians selected by the Board to determine the extent of the
15 member's injury or illness. The examining physicians shall furnish
16 the Board a detailed written report of the injury or illness of the
17 examined member establishing the extent of disability and the
18 possibilities of the disabled member being returned to his or her
19 regular duties or an alternate occupation or service covered by the
20 System after a normal recuperation period. The Board shall require
21 all retired disabled members who have not attained their normal
22 retirement date to submit to a physical examination once each year
23 for a minimum of three (3) years following retirement. The Board
24 shall select a minimum of two physicians to examine the retired

1 members and pay for their services from the fund. Any retired
2 disabled member found no longer disabled by the examining physicians
3 to perform the occupation of the member or an alternate occupation
4 or service covered by the System shall be required to return to duty
5 and complete twenty (20) years of service as provided in subsection
6 A of this section, or forfeit all his or her rights and claims under
7 this act.

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

15 K. At the postoffer, preemployment physical examination
16 required under paragraph 6 of Section 2-300 of this title, the
17 physician selected by the Board shall determine the extent to which
18 a new member is disabled. If a member is determined to be partially
19 disabled, the physician shall assign a percentage of disability to
20 such partial disability. If such member then becomes entitled to a
21 disability benefit under either subsection E or subsection G of this
22 section, the benefit payable shall be reduced by the percentage
23 which such member was determined to be disabled at the postoffer,
24 preemployment physical unless the Board makes a determination that

1 the initially determined percentage of disability at the
2 preemployment physical examination is unrelated to the reason for
3 the disability currently sought pursuant to subsection E or
4 subsection G of this section. Upon employment, the member shall
5 disclose to the Board any disability payments received from any
6 source. The amount of disability to be paid to any member cannot
7 exceed one hundred percent (100%) disability from all sources. The
8 provisions of this subsection shall apply only to members whose
9 effective date of membership is on or after July 1, 2000.

10 L. In addition to the pension provided for under subsection F
11 of this section, if said member has one or more children under the
12 age of eighteen (18) years or under the age of twenty-two (22) years
13 if the child is enrolled full time in and is regularly attending a
14 public or private school or any institution of higher education,
15 Four Hundred Dollars (\$400.00) a month shall be paid from said Fund
16 for the support of each surviving child to the member or person
17 having the care and custody of such children until each child
18 reaches the age of eighteen (18) years or reaches the age of twenty-
19 two (22) years if the child is enrolled full time in and is
20 regularly attending a public or private school or any institution of
21 higher education.

22 M. Notwithstanding any other provisions in Section 2-300
23 through 2-315 of this title, in order to be eligible to receive
24 disability benefits, a member who meets the definition of disability

1 as defined in paragraph 11 of Section 2-300 of this title shall file
2 the member's completed application for disability benefits with the
3 System before such member's date of termination from service and
4 provide such additional information that the System's rules require
5 within six (6) months of the System's receipt of such application.
6 If the member's completed application for disability benefits is not
7 filed with the System before the member's date of termination from
8 service or such additional information as is required under the
9 System's rules is not provided within six (6) months of the System's
10 receipt of such application, such member shall be eligible only for
11 such other benefits as are available to members of the System and
12 shall not be eligible to receive any disability benefits.

13 N. If the requirements of Section 10 of this act are satisfied,
14 a member who, by reason of disability or attainment of normal
15 retirement date or age, is separated from service as a public safety
16 officer with the member's participating employer may elect to have
17 payment made directly to the provider for qualified health insurance
18 premiums by deduction from his or her monthly disability benefit or
19 monthly retirement payment, after December 31, 2006, in accordance
20 with Section 402(1) of the Internal Revenue Code of 1986, as
21 amended.

22 SECTION 8. AMENDATORY 47 O.S. 2001, Section 2-305.1A, as
23 amended by Section 5, Chapter 406, O.S.L. 2003 (47 O.S. Supp. 2006,
24 Section 2-305.1A), is amended to read as follows:

1 Section 2-305.1A A. This section applies to distributions made
2 on or after January 1, 1993. Notwithstanding any provision of the
3 System to the contrary that would otherwise limit a Distributee's
4 election hereunder, a Distributee may elect, at the time and in the
5 manner prescribed by the Board, to have any portion of an Eligible
6 Rollover Distribution paid directly to an Eligible Retirement Plan
7 specified by the Distributee in a Direct Rollover.

8 B. As used in this section:

9 1. "Eligible Rollover Distribution" means any distribution of
10 all or any portion of the balance to the credit of the Distributee,
11 except that an Eligible Rollover Distribution does not include: any
12 distribution that is one of a series of substantially equal periodic
13 payments (not less frequently than annually) made for the life (or
14 life expectancy) of the Distributee or the joint lives (or life
15 expectancies) of the Distributee and the Distributee's designated
16 beneficiary, or for a specified period of ten (10) years or more,
17 any distribution to the extent such distribution is required under
18 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;
19 and the portion of any distribution that is not includable in gross
20 income; provided, however, that effective January 1, 2002, a portion
21 of a distribution shall not fail to be an Eligible Rollover
22 Distribution merely because the portion consists of after-tax member
23 contributions which are not includable in gross income. However,
24 such portion may be paid only to:

1 a. from January 1, 2002, through December 31, 2006, to:

2 (1) an individual retirement account or annuity
3 described in Section 408(a) or (b) of the
4 Internal Revenue Code of 1986, as amended, or ~~to~~

5 (2) a qualified trust which is part of a defined
6 contribution plan described in Section 401(a) or
7 403(a) of the Internal Revenue Code of 1986, as
8 amended, ~~that~~ and which agrees to separately
9 account for amounts so transferred, including
10 ~~separate~~ separately accounting for the portion of
11 such distribution which is includable in gross
12 income and the portion of such distribution which
13 is not so includable;

14 b. on or after January 1, 2007, to:

15 (1) an individual retirement account or annuity
16 described in Section 408(a) or (b) of the
17 Internal Revenue Code of 1986, as amended, or

18 (2) a qualified trust described in Section 401(a) or
19 403(a) of the Internal Revenue Code of 1986, as
20 amended, or an annuity contract described in
21 Section 403(b) of the Internal Revenue Code of
22 1986, as amended, and such trust or annuity
23 contract provides for separate accounting for
24 amounts so transferred (and earnings thereon),

1 including separately accounting for the portion
2 of such distribution which is includable in gross
3 income and the portion of such distribution which
4 is not so includable.

5 2. "Eligible Retirement Plan" means an individual retirement
6 account described in Section 408(a) of the Internal Revenue Code of
7 1986, as amended, ~~and~~ an individual retirement annuity described in
8 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
9 annuity plan described in Section 403(a) of the Internal Revenue
10 Code of 1986, as amended, or a qualified trust described in Section
11 401(a) of the Internal Revenue Code of 1986, as amended, that
12 accepts the Distributee's Eligible Rollover Distribution. Effective
13 January 1, 2002, an Eligible Retirement Plan shall also mean an
14 annuity contract described in Section 403(b) of the Internal Revenue
15 Code of 1986, as amended, and an eligible plan under Section 457(b)
16 of the Internal Revenue Code of 1986, as amended, which is
17 maintained by a state, political subdivision of a state, or any
18 agency or instrumentality of a state or political subdivision of a
19 state and which agrees to separately account for amounts transferred
20 into such plan from the System. Effective January 1, 2002, the
21 definition of Eligible Retirement Plan shall also apply in the case
22 of a distribution to a surviving spouse, or to a spouse or former
23 spouse who is the alternate payee pursuant to a qualified domestic
24 order as defined in subsection B of Section 2-303.3 of this title.

1 An Eligible Retirement Plan does not include a Roth IRA under
2 Section ~~408(a)~~ 408A of the Internal Revenue Code of 1986, as
3 amended.

4 3. "Distributee" means an employee or former employee. In
5 addition, effective June 7, 1993, the employee's or former
6 employee's surviving spouse and the employee's or former employee's
7 spouse or former spouse who is the alternate payee under a qualified
8 domestic order, as defined in subsection B of Section 2-303.3 of
9 this title, are Distributees with regard to the interest of the
10 spouse or the former spouse.

11 4. "Direct Rollover" means a payment by the System to the
12 Eligible Retirement Plan specified by the Distributee.

13 C. At least thirty (30) days before and, effective January 1,
14 2007, not more than ~~ninety (90)~~ one hundred eighty (180) days before
15 the date of distribution, the Distributee must be provided with a
16 notice of rights which satisfies Section 402(f) of the Internal
17 Revenue Code of 1986, as amended, as to rollover options and tax
18 effects. Such distribution may commence less than thirty (30) days
19 after the notice is given, provided that:

20 1. The Board clearly informs the Distributee that the
21 Distributee has a right to a period of at least thirty (30) days
22 after receiving the notice to consider the decision of whether or
23 not to elect a distribution; and

24

1 2. The Distributee, after receiving the notice, affirmatively
2 elects a distribution.

3 SECTION 9. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2-305.1B of Title 47, unless
5 there is created a duplication in numbering, reads as follows:

6 A. An individual who has been designated, pursuant to Section
7 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended, as
8 the beneficiary of a deceased member and who is not the surviving
9 spouse of the member, may elect, in accordance with Section
10 402(c)(11) of the Internal Revenue Code of 1986, as amended, and at
11 the time and in the manner prescribed by the Board, to have a direct
12 trustee-to-trustee transfer of any portion of such beneficiary's
13 lump-sum distribution from the Oklahoma Law Enforcement Retirement
14 System after December 31, 2006, made to an individual retirement
15 account or individual retirement annuity (other than an endowment
16 contract) described in Section 408(a) or (b) of the Internal Revenue
17 Code of 1986, as amended (IRA). If such transfer is made, then:

18 1. The transfer is treated as an eligible rollover distribution
19 for purposes of Section 402(c)(11) of the Internal Revenue Code of
20 1986, as amended;

21 2. The transferee IRA is treated as an inherited individual
22 retirement account or an inherited individual retirement annuity
23 (within the meaning of Section 408(d)(3)(C) of the Internal Revenue
24 Code of 1986, as amended); and

1 3. The required minimum distribution rules of Section
2 401(a)(9)(B), other than clause iv thereof, of the Internal Revenue
3 Code of 1986, as amended, apply to the transferee IRA.

4 B. A trust maintained for the benefit of one or more designated
5 beneficiaries shall be treated in the same manner as a trust
6 designated beneficiary.

7 C. The Board shall promulgate such rules as are necessary to
8 implement the provisions of this section.

9 SECTION 10. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 2-305.1C of Title 47, unless
11 there is created a duplication in numbering, reads as follows:

12 A. A member who is an eligible retired public safety officer
13 and who wishes to have direct payments made toward the member's
14 qualified health insurance premiums from the member's monthly
15 disability benefit or monthly retirement payment must make a written
16 election in accordance with Section 402(1) of the Internal Revenue
17 Code of 1986, as amended, on the form provided by the Oklahoma Law
18 Enforcement Retirement System, as follows:

19 1. The election must be made after the member separates from
20 service as a public safety officer with the member's participating
21 employer;

22 2. The election shall only apply to distributions from the
23 System after December 31, 2006, and to amounts not yet distributed
24 to the eligible retired public safety officer;

1 3. Direct payments for an eligible retired public safety
2 officer's qualified health insurance premiums can only be made from
3 the member's monthly disability benefit or monthly retirement
4 payment from the System and cannot be made from the Oklahoma Law
5 Enforcement Deferred Option Plan; and

6 4. The aggregate amount of the exclusion from an eligible
7 retired public safety officer's gross income is Three Thousand
8 Dollars (\$3,000.00) per calendar year.

9 B. As used in this section:

10 1. "Eligible retired public safety officer" is a member who, by
11 reason of disability or attainment of normal retirement date or age,
12 is separated from service as a public safety officer with the
13 member's participating employer;

14 2. "Public safety officer" means a member serving a public
15 agency in an official capacity, with or without compensation, as a
16 law enforcement officer, firefighter, chaplain, or a member of a
17 rescue squad or ambulance crew; and

18 3. "Qualified health insurance premiums" means premiums for
19 coverage for the eligible retired public safety officer, the
20 eligible retired public safety officer's spouse, and dependents by
21 an accident or health insurance plan or a qualified long-term care
22 insurance contract. The health plan does not have to be sponsored
23 by the eligible retired public safety officer's former participating
24 employer.

1 C. The Board shall promulgate such rules as are necessary to
2 implement the provisions of this section.

3 SECTION 11. This act shall become effective July 1, 2007.

4 SECTION 12. It being immediately necessary for the preservation
5 of the public peace, health and safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

8

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