

1 ENGROSSED SENATE
2 BILL NO. 695

By: Corn of the Senate

and

Hickman of the House

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6
7 [retirement - Oklahoma Law Enforcement Retirement

8 System - certain health insurance premiums -

9 codification - effective date -

10 emergency]

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

13 SECTION 1. AMENDATORY 47 O.S. 2001, Section 2-305, as
14 last amended by Section 19, Chapter 46, 2nd Extraordinary Session,
15 O.S.L. 2006 (47 O.S. Supp. 2006, Section 2-305), is amended to read
16 as follows:

17 Section 2-305. A. Except as otherwise provided in this title,
18 at any time after attaining normal retirement date, any member of
19 the Oklahoma Law Enforcement Retirement System upon application for
20 unreduced retirement benefits made and approved, may retire, and,
21 during the remainder of the member's lifetime, receive annual
22 retirement pay, payable in equal monthly payments, equal to two and
23 one-half percent (2 1/2%) of the final average salary times years of
24 credited service. If such retired member is reemployed by a state

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

1 System is not physically or mentally able to continue to perform
2 services as required of the employer, the Board shall by resolution
3 order his or her retirement with retirement pay for length of
4 service as provided herein.

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

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

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

- 23 a. Oklahoma Highway Patrolman,
- 24 b. Communications Dispatcher,

1 c. Capitol Patrolman,

2 d. Lake Patrolman,

3 e. Oklahoma State Bureau of Investigation—Special Agent;

4 or

5 2. The member's final average salary as set forth in paragraph
6 9 of Section 2-300 of this title, multiplied by two and one-half
7 percent (2 1/2%), and multiplied by the number of years of credited
8 service and fraction thereof.

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

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

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

23 a. Alcoholic Beverage Laws Enforcement Commission—ABLE
24 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 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

1 service. If such member participates in the Oklahoma Law
2 Enforcement Deferred Option Plan pursuant to Section 2-305.2 of this
3 title, then such member's disability pension provided pursuant to
4 this subsection shall be reduced to account for such member's
5 participation in the Oklahoma Law Enforcement Deferred Option Plan.

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

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

12 2. Multiplied by:

13 a. twenty (20) years of service, regardless of the actual
14 number of years of credited service performed by the
15 member prior to the date of disability, if the member
16 had performed less than twenty (20) years of service,
17 or

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

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

22 a. the salary which the member would have received
23 pursuant to statutory salary schedules in effect upon
24 the date of the disability for twenty (20) years of

1 service prior to disability. The final average salary
2 for a member who performed less than twenty (20) years
3 of service prior to disability shall be computed
4 assuming that the member was paid the highest salary
5 allowable pursuant to the law in effect at the time of
6 the member's disability based upon twenty (20) years
7 of service and with an assumption that the member was
8 eligible for any and all increases in pay based upon
9 rank during the entire period. If the salary of a
10 member is not prescribed by a specific salary schedule
11 upon the date of the member's disability, the final
12 average salary for the member shall be computed by the
13 member's actual final average salary or the highest
14 median salary amount for a member whose salary was
15 prescribed by a specific salary schedule upon the date
16 of the member's disability, whichever final average
17 salary amount would be greater, or

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

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

1 account for such member's participation in the Oklahoma Law
2 Enforcement Deferred Option Plan.

3 G. A member who meets the definition of disability as defined
4 in Section 2-300 of this title and whose disability occurred prior
5 to the member's normal retirement date but after completing three
6 (3) years of vesting service and not by reason of the performance of
7 the member's duties as an officer or as a result of the member's
8 willful negligence shall receive a monthly benefit equal to two and
9 one-half percent (2 1/2%) of final average salary multiplied by the
10 number of years of the member's credited service.

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

16 I. For the purpose of determining the member's disability under
17 subsection E, F or G of this section, the member shall be required
18 by the Board to be examined by a minimum of two recognized
19 physicians selected by the Board to determine the extent of the
20 member's injury or illness. The examining physicians shall furnish
21 the Board a detailed written report of the injury or illness of the
22 examined member establishing the extent of disability and the
23 possibilities of the disabled member being returned to his or her
24 regular duties or an alternate occupation or service covered by the

1 System after a normal recuperation period. The Board shall require
2 all retired disabled members who have not attained their normal
3 retirement date to submit to a physical examination once each year
4 for a minimum of three (3) years following retirement. The Board
5 shall select a minimum of two physicians to examine the retired
6 members and pay for their services from the fund. Any retired
7 disabled member found no longer disabled by the examining physicians
8 to perform the occupation of the member or an alternate occupation
9 or service covered by the System shall be required to return to duty
10 and complete twenty (20) years of service as provided in subsection
11 A of this section, or forfeit all his or her rights and claims under
12 this act.

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

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

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

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

1 regularly attending a public or private school or any institution of
2 higher education.

3 M. Notwithstanding any other provisions in Section 2-300
4 through 2-315 of this title, in order to be eligible to receive
5 disability benefits, a member who meets the definition of disability
6 as defined in paragraph 11 of Section 2-300 of this title shall file
7 the member's completed application for disability benefits with the
8 System before such member's date of termination from service and
9 provide such additional information that the System's rules require
10 within six (6) months of the System's receipt of such application.
11 If the member's completed application for disability benefits is not
12 filed with the System before the member's date of termination from
13 service or such additional information as is required under the
14 System's rules is not provided within six (6) months of the System's
15 receipt of such application, such member shall be eligible only for
16 such other benefits as are available to members of the System and
17 shall not be eligible to receive any disability benefits.

18 N. If the requirements of Section 4 of this act are satisfied,
19 a member who, by reason of disability or attainment of normal
20 retirement date, is separated from service as a public safety
21 officer with the member's participating employer, may elect to have
22 payment made directly to the provider for qualified health insurance
23 premiums by deduction from his or her monthly disability benefit or

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1 monthly retirement payment, after December 31, 2006, in accordance
2 with Section 402 (1) of the Internal Revenue Code, as amended.

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

6 Section 2-305.1A 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 Board, to have any portion of an Eligible
11 Rollover Distribution paid directly to an Eligible Retirement Plan
12 specified by the Distributee in a Direct Rollover.

13 B. As used in this section:

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

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

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

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

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

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

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

23 (2) a qualified trust described in Section 401(a) or
24 403(a) of the Internal Revenue Code of 1986, as

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

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

1 into such plan from the System. Effective January 1, 2002, the
2 definition of Eligible Retirement Plan shall also apply in the case
3 of a distribution to a surviving spouse, or to a spouse or former
4 spouse who is the alternate payee pursuant to a qualified domestic
5 order as defined in subsection B of Section 2-303.3 of this title.
6 An Eligible Retirement Plan does not include a Roth IRA under
7 Section 408(a) A of the Internal Revenue Code of 1986, as amended.

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

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

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

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

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

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

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

21 1. The transfer is treated as an eligible rollover distribution
22 for purposes of Section 402(c)(11) of the Internal Revenue Code of
23 1986, as amended;

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

5 3. The required minimum distribution rules of Section
6 401(a)(9)(B), other than clause iv thereof, of the Internal Revenue
7 Code of 1986, as amended, apply to the transferee IRA.

8 B. A trust maintained for the benefit of one or more designated
9 beneficiaries shall be treated in the same manner as a trust
10 designated beneficiary.

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

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

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

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

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

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

12 B. As used in this section:

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

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

21 3. "Qualified health insurance premiums" means premiums for
22 coverage for the eligible retired public safety officer, the
23 eligible retired public safety officer's spouse, and dependents by
24 an accident or health insurance plan or a qualified long-term care

1 insurance contract. The health plan does not have to be sponsored
2 by the eligible retired public safety officer's former participating
3 employer.

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

6 SECTION 5. This act shall become effective July 1, 2007.

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

11 Passed the Senate the 27th day of February, 2007.

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Presiding Officer of the Senate

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15 Passed the House of Representatives the ____ day of _____,
16 2007.

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Presiding Officer of the House
of Representatives

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