

SB 695

3 Senate Bill No. 695
4 As Amended

5 SENATE BILL NO. 695 - By: CORN of the Senate and HICKMAN of the
6 House.

7 [retirement - Oklahoma Law Enforcement Retirement System -
8 certain health insurance premiums - codification - effective
9 date -
10 emergency]

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

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

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

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

1 services as required of the employer, the Board shall by resolution
2 order his or her retirement with retirement pay for length of
3 service as provided herein.

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

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

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

- 22 a. Oklahoma Highway Patrolman,
23 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:

- 1 a. Alcoholic Beverage Laws Enforcement Commission–ABLE
- 2 Commission Agent III,
- 3 b. Oklahoma State Bureau of Narcotics and Dangerous Drugs
- 4 Control–Narcotics Agent III,
- 5 c. Oklahoma Tourism and Recreation Department–Park Ranger
- 6 II,
- 7 d. Oklahoma State Board of Pharmacy–Pharmacy Inspector,
- 8 e. University of Oklahoma–Police Officer,
- 9 f. Oklahoma State University–Police Officer; or

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

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

21 E. A member who meets the definition of disability as defined
22 in paragraph 11 of Section 2-300 of this title by direct reason of
23 the performance of the member’s duties as an officer shall receive a

1 monthly benefit equal to the greater of fifty percent (50%) of final
2 average salary or two and one-half percent (2 1/2%) of final average
3 salary multiplied by the number of years of the member's credited
4 service. If such member participates in the Oklahoma Law
5 Enforcement Deferred Option Plan pursuant to Section 2-305.2 of this
6 title, then such member's disability pension provided pursuant to
7 this subsection shall be reduced to account for such member's
8 participation in the Oklahoma Law Enforcement Deferred Option Plan.

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

- 14 1. Two and one-half percent (2 1/2%);
- 15 2. Multiplied by:
 - 16 a. twenty (20) years of service, regardless of the actual
17 number of years of credited service performed by the
18 member prior to the date of disability, if the member
19 had performed less than twenty (20) years of service,
20 or
 - 21 b. the actual number of years of service performed by the
22 member if the member had performed twenty (20) or more
23 years of service;

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

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

1 b. the actual final average salary of the member if the
2 member had performed twenty (20) or more years of
3 service prior to disability.

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

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

18 H. Payment of a disability pension shall commence as of the
19 first day of the month coinciding or next following the date of
20 retirement and shall continue as long as the member meets the
21 definition of total and permanent disability provided in this
22 section.

1 I. For the purpose of determining the member's disability under
2 subsection E, F or G of this section, the member shall be required
3 by the Board to be examined by a minimum of two recognized
4 physicians selected by the Board to determine the extent of the
5 member's injury or illness. The examining physicians shall furnish
6 the Board a detailed written report of the injury or illness of the
7 examined member establishing the extent of disability and the
8 possibilities of the disabled member being returned to his or her
9 regular duties or an alternate occupation or service covered by the
10 System after a normal recuperation period. The Board shall require
11 all retired disabled members who have not attained their normal
12 retirement date to submit to a physical examination once each year
13 for a minimum of three (3) years following retirement. The Board
14 shall select a minimum of two physicians to examine the retired
15 members and pay for their services from the fund. Any retired
16 disabled member found no longer disabled by the examining physicians
17 to perform the occupation of the member or an alternate occupation
18 or service covered by the System shall be required to return to duty
19 and complete twenty (20) years of service as provided in subsection
20 A of this section, or forfeit all his or her rights and claims under
21 this act.

22 J. The disability benefit under this section shall be for the
23 lifetime of the member unless such member is found no longer

1 disabled pursuant to subsection I of this section. Such member
2 shall not be entitled to the retirement benefit pursuant to
3 subsection A of this section unless such member returns to active
4 duty and is eligible for a retirement benefit as provided in
5 subsection A of this section.

6 K. At the postoffer, preemployment physical examination
7 required under paragraph 6 of Section 2-300 of this title, the
8 physician selected by the Board shall determine the extent to which
9 a new member is disabled. If a member is determined to be partially
10 disabled, the physician shall assign a percentage of disability to
11 such partial disability. If such member then becomes entitled to a
12 disability benefit under either subsection E or subsection G of this
13 section, the benefit payable shall be reduced by the percentage
14 which such member was determined to be disabled at the postoffer,
15 preemployment physical unless the Board makes a determination that
16 the initially determined percentage of disability at the
17 preemployment physical examination is unrelated to the reason for
18 the disability currently sought pursuant to subsection E or
19 subsection G of this section. Upon employment, the member shall
20 disclose to the Board any disability payments received from any
21 source. The amount of disability to be paid to any member cannot
22 exceed one hundred percent (100%) disability from all sources. The

1 provisions of this subsection shall apply only to members whose
2 effective date of membership is on or after July 1, 2000.

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

15 M. Notwithstanding any other provisions in Section 2-300
16 through 2-315 of this title, in order to be eligible to receive
17 disability benefits, a member who meets the definition of disability
18 as defined in paragraph 11 of Section 2-300 of this title shall file
19 the member's completed application for disability benefits with the
20 System before such member's date of termination from service and
21 provide such additional information that the System's rules require
22 within six (6) months of the System's receipt of such application.
23 If the member's completed application for disability benefits is not

1 filed with the System before the member's date of termination from
2 service or such additional information as is required under the
3 System's rules is not provided within six (6) months of the System's
4 receipt of such application, such member shall be eligible only for
5 such other benefits as are available to members of the System and
6 shall not be eligible to receive any disability benefits.

7 N. If the requirements of Section 4 of this act are satisfied,
8 a member who, by reason of disability or attainment of normal
9 retirement date, is separated from service as a public safety
10 officer with the member's participating employer, may elect to have
11 payment made directly to the provider for qualified health insurance
12 premiums by deduction from his or her monthly disability benefit or
13 monthly retirement payment, after December 31, 2006, in accordance
14 with Section 402 (1) of the Internal Revenue Code, as amended.

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

18 Section 2-305.1A A. This section applies to distributions made
19 on or after January 1, 1993. Notwithstanding any provision of the
20 System to the contrary that would otherwise limit a Distributee's
21 election hereunder, a Distributee may elect, at the time and in the
22 manner prescribed by the Board, to have any portion of an Eligible

1 Rollover Distribution paid directly to an Eligible Retirement Plan
2 specified by the Distributee in a Direct Rollover.

3 B. As used in this section:

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

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

1 (2) a qualified trust which is part of a defined
2 contribution plan described in Section 401(a) or
3 403(a) of the Internal Revenue Code of 1986, as
4 amended, ~~that~~ and which agrees to separately
5 account for amounts so transferred, including
6 ~~separate~~ separately accounting for the portion of
7 such distribution which is includable in gross
8 income and the portion of such distribution which
9 is not so includable;

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

11 (1) an individual retirement account or annuity
12 described in Section 408(a) or (b) of the
13 Internal Revenue Code of 1986, as amended, or
14 (2) a qualified trust described in Section 401(a) or
15 403(a) of the Internal Revenue Code of 1986, as
16 amended, or an annuity contract described in
17 Section 403(b) of the Internal Revenue Code of
18 1986, as amended, and such trust or annuity
19 contract provides for separate accounting for
20 amounts so transferred and earnings thereon,
21 including separately accounting for the portion
22 of such distribution which is includable in gross

1 income and the portion of such distribution which
2 is not so includable.

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

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

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

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

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

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

3 SECTION 3. 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, in writing, as the
7 beneficiary of a deceased member and who is not the surviving spouse
8 of the member, may elect, in accordance with Section 402(c)(11) of
9 the Internal Revenue Code of 1986, as amended, and at the time and
10 in the manner prescribed by the Board, to have a direct trustee-to-
11 trustee transfer of any portion of such beneficiary's lump-sum
12 distribution from the Oklahoma Law Enforcement Retirement System
13 after December 31, 2006, made to an individual retirement account or
14 individual retirement annuity other than an endowment contract
15 described in Section 408(a) or (b) of the Internal Revenue Code of
16 1986, as amended. If such transfer is made, then:

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

20 2. The transferee IRA is treated as an inherited individual
21 retirement account or an inherited individual retirement annuity
22 within the meaning of Section 408(d)(3)(C) of the Internal Revenue
23 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 SECTION 4. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2-305.1C of Title 47, unless
9 there is created a duplication in numbering, reads as follows:

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

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

20 2. The election shall only apply to distributions from the
21 System after December 31, 2006, and to amounts not yet distributed
22 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, is
12 separated from service as a public safety officer with the member's
13 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.

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

1 by the eligible retired public safety officer's former participating
2 employer.

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

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

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

10 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated
11 2-8-07 - DO PASS, As Amended and Coauthored.