

1 STATE OF OKLAHOMA

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

3 SENATE BILL 695

By: Corn

4  
5  
6 AS INTRODUCED

7 An Act relating to retirement; amending 47 O.S. 2001,  
8 Sections 2-305, as last amended by Section 19,  
9 Chapter 46, 2nd Extraordinary Session, O.S.L. 2006  
10 and 2-305.1A, as amended by Section 5, Chapter 406,  
11 O.S.L. 2003 (47 O.S. Supp. 2006, Sections 2-305 and  
12 2-305.1A), which relate to the Oklahoma Law  
13 Enforcement Retirement System; modifying procedures  
14 for payment of certain health insurance premiums;  
15 modifying definition; providing procedures relating  
16 to the transfer of certain lump-sum distributions to  
17 certain accounts or annuities; providing for direct  
18 payment of certain health insurance premiums;  
19 defining terms; providing for codification; providing  
20 an effective date; and declaring an emergency.

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

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

Section 2-305. A. Except as otherwise provided in this title,  
at any time after attaining normal retirement date, any member of  
the Oklahoma Law Enforcement Retirement System upon application for  
unreduced retirement benefits made and approved, may retire, and,

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

1 be made by a member of the System within thirty (30) days after  
2 reaching the age of sixty (60) years and completing twenty (20)  
3 years or more of credited service or if, after such application and  
4 examination, the Board shall determine that such member of the  
5 System is not physically or mentally able to continue to perform  
6 services as required of the employer, the Board shall by resolution  
7 order his or her retirement with retirement pay for length of  
8 service as provided herein.

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

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

23 1. The top base pay currently paid to an active member, at the  
24 time each such monthly retirement payment is made, multiplied by two

1 and one-half percent (2 1/2%) multiplied by the number of years of  
2 credited service and fraction thereof for the following positions:

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

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

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

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

22 1. The actual average salary currently paid to the highest  
23 nonsupervisory position in the participating agency, at the time  
24 each such monthly payment is made, multiplied by two and one-half

1 percent (2 1/2%), multiplied by the number of years of credited  
2 service and fraction thereof for the following positions:

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

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

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

23 E. A member who meets the definition of disability as defined  
24 in paragraph 11 of Section 2-300 of this title by direct reason of

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

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

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

16 2. Multiplied by:

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

22 b. the actual number of years of service performed by the  
23 member if the member had performed twenty (20) or more  
24 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  
22 b. the actual final average salary of the member if the  
23 member had performed twenty (20) or more years of  
24 service prior to disability.

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

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

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

20        I. For the purpose of determining the member's disability under  
21 subsection E, F or G of this section, the member shall be required  
22 by the Board to be examined by a minimum of two recognized  
23 physicians selected by the Board to determine the extent of the  
24 member's injury or illness. The examining physicians shall furnish

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

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

24

1 K. At the postoffer, preemployment physical examination  
2 required under paragraph 6 of Section 2-300 of this title, the  
3 physician selected by the Board shall determine the extent to which  
4 a new member is disabled. If a member is determined to be partially  
5 disabled, the physician shall assign a percentage of disability to  
6 such partial disability. If such member then becomes entitled to a  
7 disability benefit under either subsection E or subsection G of this  
8 section, the benefit payable shall be reduced by the percentage  
9 which such member was determined to be disabled at the postoffer,  
10 preemployment physical unless the Board makes a determination that  
11 the initially determined percentage of disability at the  
12 preemployment physical examination is unrelated to the reason for  
13 the disability currently sought pursuant to subsection E or  
14 subsection G of this section. Upon employment, the member shall  
15 disclose to the Board any disability payments received from any  
16 source. The amount of disability to be paid to any member cannot  
17 exceed one hundred percent (100%) disability from all sources. The  
18 provisions of this subsection shall apply only to members whose  
19 effective date of membership is on or after July 1, 2000.

20 L. In addition to the pension provided for under subsection F  
21 of this section, if said member has one or more children under the  
22 age of eighteen (18) years or under the age of twenty-two (22) years  
23 if the child is enrolled full time in and is regularly attending a  
24 public or private school or any institution of higher education,

1 Four Hundred Dollars (\$400.00) a month shall be paid from said Fund  
2 for the support of each surviving child to the member or person  
3 having the care and custody of such children until each child  
4 reaches the age of eighteen (18) years or reaches the age of twenty-  
5 two (22) years if the child is enrolled full time in and is  
6 regularly attending a public or private school or any institution of  
7 higher education.

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

23 N. If the requirements of Section 4 of this act are satisfied,  
24 a member who, by reason of disability or attainment of normal

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

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

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

17 B. As used in this section:

18 1. "Eligible Rollover Distribution" means any distribution of  
19 all or any portion of the balance to the credit of the Distributee,  
20 except that an Eligible Rollover Distribution does not include: any  
21 distribution that is one of a series of substantially equal periodic  
22 payments (not less frequently than annually) made for the life (or  
23 life expectancy) of the Distributee or the joint lives (or life  
24 expectancies) of the Distributee and the Distributee's designated

1 beneficiary, or for a specified period of ten (10) years or more,  
2 any distribution to the extent such distribution is required under  
3 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;  
4 and the portion of any distribution that is not includable in gross  
5 income; provided, however, that effective January 1, 2002, a portion  
6 of a distribution shall not fail to be an Eligible Rollover  
7 Distribution merely because the portion consists of after-tax member  
8 contributions which are not includable in gross income. However,  
9 such portion may be paid only ~~to~~:

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

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

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

24

1           (1) an individual retirement account or annuity  
2           described in Section 408(a) or (b) of the  
3           Internal Revenue Code of 1986, as amended, or  
4           (2) a qualified trust described in Section 401(a) or  
5           403(a) of the Internal Revenue Code of 1986, as  
6           amended, or an annuity contract described in  
7           Section 403(b) of the Internal Revenue Code of  
8           1986, as amended, and such trust or annuity  
9           contract provides for separate accounting for  
10           amounts so transferred and earnings thereon,  
11           including separately accounting for the portion  
12           of such distribution which is includable in gross  
13           income and the portion of such distribution which  
14           is not so includable.

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

1 Code of 1986, as amended, and an eligible plan under Section 457(b)  
2 of the Internal Revenue Code of 1986, as amended, which is  
3 maintained by a state, political subdivision of a state, or any  
4 agency or instrumentality of a state or political subdivision of a  
5 state and which agrees to separately account for amounts transferred  
6 into such plan from the System. Effective January 1, 2002, the  
7 definition of Eligible Retirement Plan shall also apply in the case  
8 of a distribution to a surviving spouse, or to a spouse or former  
9 spouse who is the alternate payee pursuant to a qualified domestic  
10 order as defined in subsection B of Section 2-303.3 of this title.  
11 An Eligible Retirement Plan does not include a Roth IRA under  
12 Section 408(a) A of the Internal Revenue Code of 1986, as amended.

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

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

22 C. At least thirty (30) days before and, effective January 1,  
23 2007, not more than ~~ninety (90)~~ one hundred eighty (180) days before  
24 the date of distribution, the Distributee must be provided with a

1 notice of rights which satisfies Section 402(f) of the Internal  
2 Revenue Code of 1986, as amended, as to rollover options and tax  
3 effects. Such distribution may commence less than thirty (30) days  
4 after the notice is given, provided that:

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

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

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

14 A. An individual who has been designated, in writing, as the  
15 beneficiary of a deceased member and who is not the surviving spouse  
16 of the member, may elect, in accordance with Section 402(c)(11) of  
17 the Internal Revenue Code of 1986, as amended, and at the time and  
18 in the manner prescribed by the Board, to have a direct trustee-to-  
19 trustee transfer of any portion of such beneficiary's lump-sum  
20 distribution from the Oklahoma Law Enforcement Retirement System  
21 after December 31, 2006, made to an individual retirement account or  
22 individual retirement annuity other than an endowment contract  
23 described in Section 408(a) or (b) of the Internal Revenue Code of  
24 1986, as amended. If such transfer is made, then:

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

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

24

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

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

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

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

15           B. As used in this section:

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

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

24

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

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

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

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

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