

1 STATE OF OKLAHOMA

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

3 SENATE BILL 85

By: Corn

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5
6 AS INTRODUCED

7 An Act relating to the Oklahoma Law Enforcement
8 Retirement System; amending 47 O.S. 2001, Sections 2-
9 305, as last amended by Section 19, Chapter 46, 2nd
10 Extraordinary Session, O.S.L. 2006 and 2-306, as last
11 amended Section 4, Chapter 542, O.S.L. 2004 (47 O.S.
12 Supp. 2006, Sections 2-305 and 2-306), which relate
13 to payments made in support of certain surviving
14 children; modifying amount of certain payments;
15 providing an effective date; and declaring an
16 emergency.

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

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

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

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

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

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

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

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

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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)~~ Seven Hundred Fifty Dollars (\$750.00)

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

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1 SECTION 2. AMENDATORY 47 O.S. 2001, Section 2-306, as
2 last amended by Section 4, Chapter 542, O.S.L. 2004 (47 O.S. Supp.
3 2006, Section 2-306), is amended to read as follows:

4 Section 2-306. A. Upon the death of a retired member or upon
5 the death of any member prior to retirement or other termination of
6 covered employment, a monthly pension shall be paid which shall be
7 in an amount as provided below:

8 1. If the member was not retired and death occurred as the
9 direct result of the performance of the member's duties as an
10 officer, an amount:

11 a. equal to two and one-half percent (2 1/2%),

12 b. multiplied by:

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

18 (2) the actual number of years of service performed
19 by the member if the member had performed twenty
20 (20) or more years of service,

21 c. multiplied by a final average salary equal to:

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

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

- 21 (2) the actual final average salary of the member if
22 the member had performed twenty (20) or more
23 years of service prior to death; or
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1 2. If the member was not retired and death occurred other than
2 as the direct result of the performance of the member's duties as an
3 officer, an amount equal to the monthly payments which would have
4 been received by the member under subsection E of Section 2-305 of
5 this title had the member been totally disabled; or

6 3. If said member was retired for length of service, an amount
7 equal to the member's monthly payments; or

8 4. If said member was receiving, or eligible to receive, a
9 disability benefit pursuant to subsection E or F of Section 2-305 of
10 this title, an amount equal to the member's monthly payments
11 pursuant to subsection E or F of Section 2-305 of this title; or

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

16 6. If said member was retired for partial disability, an amount
17 equal to the monthly payments which would have been received by said
18 member had the member been totally disabled.

19 B. The pension provided for in subsection A of this section
20 shall be paid:

21 1. Except as provided in paragraph 4 of this subsection, to the
22 surviving spouse, provided the surviving spouse was married to the
23 member at the time of the member's death, and continuously for the
24 thirty (30) months immediately preceding the member's death,

1 provided a surviving spouse of a member who died while in, or as a
2 consequence of, the performance of the member's duty for the
3 employer, shall not be subject to the thirty-month marriage
4 requirement for survivor benefits; or

5 2. If there is no surviving spouse or upon the death of a
6 spouse:

7 a. to the person having the care and custody of any
8 surviving child or children of said member for such
9 time as such child or children are under the age of
10 eighteen (18) years, or

11 b. to the surviving child or children between the age of
12 eighteen (18) and twenty-two (22) years if the child
13 is enrolled full time in and is regularly attending a
14 public or private school or any institution of higher
15 education;

16 3. If there is no surviving spouse or children under the age of
17 eighteen (18) years or under the age of twenty-two (22) years if the
18 child is enrolled full time in and is regularly attending a public
19 or private school or any institution of higher education, to the
20 dependent parent or parents of said member, for life; or

21 4. In the event a surviving spouse remarried prior to June 7,
22 1993, and was a surviving spouse of a member who died while in, or
23 as a consequence of, the performance of the member's duty for the
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1 employer, the surviving spouse shall be eligible to receive the
2 pension benefits provided for in subsection A of this section.

3 To receive the pension benefits provided for in subsection A of
4 this section the surviving spouse falling within this paragraph
5 shall submit a written request for such benefits to the Oklahoma Law
6 Enforcement Retirement System. The Oklahoma Law Enforcement
7 Retirement System shall approve requests by surviving spouses
8 meeting the requirements of this paragraph. Upon approval by the
9 Oklahoma Law Enforcement Retirement System, the surviving spouse
10 shall be entitled to the pension benefits provided for in subsection
11 A of this section beginning from the date of approval forward.
12 Pension benefits provided to surviving spouses falling within this
13 paragraph shall not apply to alter any amount of pension benefits
14 paid or due prior to the Oklahoma Law Enforcement Retirement
15 System's approval of the remarried surviving spouse's written
16 request for benefits.

17 No surviving spouse shall receive benefits from this section,
18 Section 49-113 of Title 11 of the Oklahoma Statutes, or Section 50-
19 117 of Title 11 of the Oklahoma Statutes as the surviving spouse of
20 more than one member of the Oklahoma Firefighters Pension and
21 Retirement System, the Oklahoma Police Pension and Retirement
22 System, or the Oklahoma Law Enforcement Retirement System. The
23 surviving spouse of more than one member shall elect which member's
24 benefits he or she will receive.

1 C. In addition to the pension above provided for, if said
2 member leaves a surviving spouse and one or more children under the
3 age of eighteen (18) years or under the age of twenty-two (22) years
4 if the child is enrolled full time in and is regularly attending a
5 public or private school or any institution of higher education,
6 ~~Four Hundred Dollars (\$400.00)~~ Seven Hundred Fifty Dollars (\$750.00)
7 a month shall be paid from said Fund for the support of each
8 surviving child to the person having the care and custody of such
9 children during such time as said spouse remains alive and until
10 each child reaches the age of eighteen (18) years or reaches the age
11 of twenty-two (22) years if the child is enrolled full time in and
12 is regularly attending a public or private school or any institution
13 of higher education.

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

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

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

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