

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

HOUSE BILL 1662

By: Osborn of the House

and

Anderson of the Senate

AS INTRODUCED

An Act relating to public retirement systems; amending 47 O.S. 2001, Sections 2-300, as last amended by Section 8, Chapter 437, O.S.L 2010, 2-304, 2-305, as last amended by Section 10, Chapter 438, O.S.L. 2010 and 2-305.2, as last amended by Section 11, Chapter 437, O.S.L. 2010 (47 O.S. Supp. 2010, Sections 2-300, 2-305 and 2-305.2), which relate to the Oklahoma Law Enforcement Retirement System; modifying definitions; modifying vesting requirements for certain members; modifying required employee contribution amount for certain members; modifying formula for purposes of benefit computation for certain members; providing certain benefit computations inapplicable to members based upon date of initial participation in Oklahoma Law Enforcement Retirement System; providing certain members ineligible to participate in Oklahoma Law Enforcement Deferred Option Plan; and providing an effective date.

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

UNDERLINED language denotes Amendments to present Statutes.  
BOLD FACE CAPITALIZED language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 SECTION 1. AMENDATORY 47 O.S. 2001, Section 2-300, as  
2 last amended by Section 8, Chapter 437, O.S.L. 2010 (47 O.S. Supp.  
3 2010, Section 2-300), is amended to read as follows:

4 Section 2-300. As used in Section 2-300 et seq. of this title:

5 1. "System" means the Oklahoma Law Enforcement Retirement  
6 System;

7 2. "Act" means Section 2-300 et seq. of this title;

8 3. "Board" means the Oklahoma Law Enforcement Retirement Board  
9 of the System;

10 4. "Executive Director" means the managing officer of the  
11 System employed by the Board;

12 5. "Fund" means the Oklahoma Law Enforcement Retirement Fund;

13 6. a. "Member" means:

14 (1) all commissioned law enforcement officers of the  
15 Oklahoma Highway Patrol Division of the  
16 Department of Public Safety who have obtained  
17 certification from the Council on Law Enforcement  
18 Education and Training, and all cadets of a  
19 Patrol Academy of the Department of Public  
20 Safety,

21 (2) law enforcement officers and criminalists of the  
22 Oklahoma State Bureau of Investigation,  
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- 1 (3) law enforcement officers of the Oklahoma State  
2 Bureau of Narcotics and Dangerous Drugs Control  
3 designated to perform duties in the investigation  
4 and prevention of crime and the enforcement of  
5 the criminal laws of this state,
- 6 (4) law enforcement officers of the Oklahoma  
7 Alcoholic Beverage Laws Enforcement Commission  
8 designated to perform duties in the investigation  
9 and prevention of crime and the enforcement of  
10 the criminal laws of this state,
- 11 (5) employees of the Communications Section of the  
12 Oklahoma Highway Patrol Division, radio  
13 technicians, and tower technicians of the  
14 Department of Public Safety, who are employed in  
15 any such capacity as of June 30, 2008, and who  
16 remain employed on or after July 1, 2008, until a  
17 termination of service, or until a termination of  
18 service with an election of a vested benefit from  
19 the System, or until retirement. Effective July  
20 1, 2008, a person employed for the first time as  
21 an employee of the Department of Public Safety in  
22 the Communications Division as an information  
23 systems telecommunication technician of the  
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1 Department of Public Safety shall not be a member  
2 of the System,

3 (6) park rangers of the Oklahoma Tourism and  
4 Recreation Department and any park manager or  
5 park supervisor of the Oklahoma Tourism and  
6 Recreation Department who was employed in such a  
7 position prior to July 1, 1985, and who elects on  
8 or before September 1, 1996, to participate in  
9 the System, and

10 (7) inspectors of the Board of Pharmacy.

11 b. Effective July 1, 1987, a member does not include a  
12 "leased employee" as defined under Section 414(n)(2) of  
13 the Internal Revenue Code of 1986, as amended.

14 Effective July 1, 1999, any individual who agrees with  
15 the participating employer that the individual's  
16 services are to be performed as a leased employee or  
17 an independent contractor shall not be a member  
18 regardless of any classification as a common-law  
19 employee by the Internal Revenue Service or any other  
20 governmental agency, or any court of competent  
21 jurisdiction.

22 c. All persons who shall be offered a position of a  
23 commissioned law enforcement officer as an employee of  
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1 one of the agencies described in subparagraph a of  
2 this paragraph shall participate in the System upon  
3 the person meeting the requisite post-offer-pre-  
4 employment physical examination standards which shall  
5 be subject to the following requirements:

- 6 (1) all such persons shall be of good moral  
7 character, free from deformities, mental or  
8 physical conditions, or disease and alcohol or  
9 drug addiction which would prohibit the person  
10 from performing the duties of a law enforcement  
11 officer,
- 12 (2) said physical-medical examination shall pertain  
13 to age, sight, hearing, agility and other  
14 conditions the requirements of which shall be  
15 established by the Board,
- 16 (3) the person shall be required to meet the  
17 conditions of this subsection prior to the  
18 beginning of actual employment but after an offer  
19 of employment has been tendered by a  
20 participating employer,
- 21 (4) the Board shall have authority to deny or revoke  
22 membership of any person submitting false  
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1 information in such person's membership  
2 application, and

- 3 (5) the Board shall have final authority in  
4 determining eligibility for membership in the  
5 System, pursuant to the provisions of this  
6 subsection;

7 7. "Normal retirement date" means the date at which the member  
8 is eligible to receive the unreduced payments of the member's  
9 accrued retirement benefit. Such date shall be the first day of the  
10 month coinciding with or following the date the member:

11 a. completes:

12 (1) twenty (20) years of vesting service with respect  
13 to a member whose initial employment and  
14 participating service in the System occurred  
15 prior to November 1, 2011, or

16 (2) twenty-five (25) years of vesting service with  
17 respect to a member whose initial employment and  
18 participating service in the System occurs on or  
19 after November 1, 2011, or

20 b. attains sixty-two (62) years of age with:

21 (1) ten (10) years of vesting service with respect to  
22 a member whose initial employment and

1 participating service in the System occurred  
2 prior to November 1, 2011, or

3 (2) twelve (12) years and six (6) months of vesting  
4 service with respect to a member whose initial  
5 employment and participating service in the  
6 System occurs on or after November 1, 2011, or

7 c. attains sixty-two (62) years of age, if:

8 (1) the member has been transferred to this System  
9 from the Oklahoma Public Employees Retirement  
10 System on or after July 1, 1981, and

11 (2) the member would have been vested had the member  
12 continued to be a member of the Oklahoma Public  
13 Employees Retirement System.

14 With respect to distributions under the System made for calendar  
15 years beginning on or after January 1, 2005, the System shall apply  
16 the minimum distribution incidental benefit requirements, incidental  
17 benefit requirements, and minimum distribution requirements of  
18 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,  
19 in accordance with the final regulations under Section 401(a)(9) of  
20 the Internal Revenue Code of 1986, as amended, which were issued in  
21 April 2002 and June 2004, notwithstanding any provision of the  
22 System to the contrary. With respect to distributions under the  
23 System made for calendar years beginning on or after January 1,

1 2001, through December 31, 2004, the System shall apply the minimum  
2 distribution requirements and incidental benefit requirements of  
3 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,  
4 in accordance with the regulations under Section 401(a)(9) of the  
5 Internal Revenue Code of 1986, as amended, which were proposed in  
6 January 2001, notwithstanding any provision of the System to the  
7 contrary.

8       Effective July 1, 1989, notwithstanding any other provision  
9 contained herein to the contrary, in no event shall commencement of  
10 distribution of the accrued retirement benefit of a member be  
11 delayed beyond April 1 of the calendar year following the later of:  
12 (1) the calendar year in which the member reaches seventy and one-  
13 half (70 1/2) years of age; or (2) the actual retirement date of the  
14 member. The preceding sentence does not allow deferral of benefit  
15 commencement beyond the age of sixty-five (65).

16       A member who was required to join the System effective July 1,  
17 1980, because of the transfer of the employing agency from the  
18 Oklahoma Public Employees Retirement System to the System, and was  
19 not a member of the Oklahoma Public Employees Retirement System on  
20 the date of such transfer shall be allowed to receive credit for  
21 prior law enforcement service rendered to this state, if the member  
22 is not receiving or eligible to receive retirement credit or  
23 benefits for such service in any other public retirement system,

1 upon payment to the System of the employee contribution the member  
2 would have been subject to had the member been a member of the  
3 System at the time, plus five percent (5%) interest. Service credit  
4 received pursuant to this paragraph shall be used in determining the  
5 member's retirement benefit, and shall be used in determining years  
6 of service for retirement or vesting purposes;

7 8. "Actual paid base salary" means the salary received by a  
8 member, excluding payment for any accumulated leave or uniform  
9 allowance. Salary shall include any amount of nonelective salary  
10 reduction under Section 414(h) of the Internal Revenue Code of 1986;

11 9. "Final average salary" means the average of the highest  
12 thirty (30) consecutive complete months of actual paid gross salary.  
13 Gross salary shall include any amount of elective salary reduction  
14 under Section 457 of the Internal Revenue Code of 1986, as amended,  
15 and any amount of nonelective salary reduction under Section 414(h)  
16 of the Internal Revenue Code of 1986, as amended. Effective July 1,  
17 1992, gross salary shall include any amount of elective salary  
18 reduction under Section 125 of the Internal Revenue Code of 1986, as  
19 amended. Effective July 1, 1998, gross salary shall include any  
20 amount of elective salary reduction not includable in the gross  
21 income of the member under Section 132(f)(4) of the Internal Revenue  
22 Code of 1986, as amended. Effective July 1, 1998, for purposes of  
23 determining a member's compensation, any contribution by the member

1 to reduce his or her regular cash remuneration under Section  
2 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be  
3 treated as if the member did not make such an election. Only salary  
4 on which required contributions have been made may be used in  
5 computing the final average salary. Gross salary shall not include  
6 severance pay.

7 In addition to other applicable limitations, and notwithstanding  
8 any other provision to the contrary, for plan years beginning on or  
9 after July 1, 2002, the annual gross salary of each "Noneligible  
10 Member" taken into account under the System shall not exceed the  
11 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")  
12 annual salary limit. The EGTRRA annual salary limit is Two Hundred  
13 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for  
14 increases in the cost of living in accordance with Section  
15 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The  
16 annual salary limit in effect for a calendar year applies to any  
17 period, not exceeding twelve (12) months, over which salary is  
18 determined ("determination period") beginning in such calendar year.  
19 If a determination period consists of fewer than twelve (12) months,  
20 the EGTRRA salary limit will be multiplied by a fraction, the  
21 numerator of which is the number of months in the determination  
22 period, and the denominator of which is twelve (12). For purposes  
23 of this section, a "Noneligible Member" is any member who first

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1 became a member during a plan year commencing on or after July 1,  
2 1996.

3 For plan years beginning on or after July 1, 2002, any reference  
4 in the System to the annual salary limit under Section 401(a)(17) of  
5 the Internal Revenue Code of 1986, as amended, shall mean the EGTRRA  
6 salary limit set forth in this provision.

7 Effective January 1, 2008, gross salary for a plan year shall  
8 also include gross salary, as described above, for services, but  
9 paid by the later of two and one-half (2 1/2) months after a  
10 member's severance from employment or the end of the calendar year  
11 that includes the date the member terminated employment, if it is a  
12 payment that, absent a severance from employment, would have been  
13 paid to the member while the member continued in employment with the  
14 employer.

15 Effective January 1, 2008, any payments not described above  
16 shall not be considered gross salary if paid after severance from  
17 employment, even if they are paid by the later of two and one-half  
18 (2 1/2) months after the date of severance from employment or the  
19 end of the calendar year that includes the date of severance from  
20 employment, except payments to an individual who does not currently  
21 perform services for the employer by reason of qualified military  
22 service within the meaning of Section 414(u)(5) of the Internal  
23 Revenue Code of 1986, as amended, to the extent these payments do

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1 not exceed the amounts the individual would have received if the  
2 individual had continued to perform services for the employer rather  
3 than entering qualified military service.

4 Effective January 1, 2008, back pay, within the meaning of  
5 Section 1.415(c)-2(g)(8) of the Income Tax Regulations, shall be  
6 treated as gross salary for the limitation year to which the back  
7 pay relates to the extent the back pay represents wages and  
8 compensation that would otherwise be included in this definition.

9 Effective for years beginning after December 31, 2008, gross  
10 salary shall also include differential wage payments under Section  
11 414(u)(12) of the Internal Revenue Code of 1986, as amended;

12 10. "Credited service" means the period of service used to  
13 determine the amount of benefits payable to a member. Credited  
14 service shall consist of the period during which the member  
15 participated in the System or the predecessor Plan as an active  
16 employee in an eligible membership classification, plus any service  
17 prior to the establishment of the predecessor Plan which was  
18 credited under the predecessor Plan and for law enforcement officers  
19 and criminalists of the Oklahoma State Bureau of Investigation and  
20 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
21 who became members of the System on July 1, 1980, any service  
22 credited under the Oklahoma Public Employees Retirement System as of  
23 June 30, 1980, and for members of the Communications and Lake Patrol

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1 Divisions of the Oklahoma Department of Public Safety, who became  
2 members of the System on July 1, 1981, any service credited under  
3 the predecessor Plan or the Oklahoma Public Employees Retirement  
4 System as of June 30, 1981, and for law enforcement officers of the  
5 Alcoholic Beverage Laws Enforcement Commission who became members of  
6 the System on July 1, 1982, any service credited under the Oklahoma  
7 Public Employees Retirement System as of June 30, 1982, and for park  
8 rangers of the Oklahoma Tourism and Recreation Department who became  
9 members of the System on July 1, 1985, any service credited under  
10 the Oklahoma Public Employees Retirement System as of June 30, 1985,  
11 and for inspectors of the Oklahoma State Board of Pharmacy who  
12 became members of the System on July 1, 1986, any service credited  
13 under the Oklahoma Public Employees Retirement System as of June 30,  
14 1986, for law enforcement officers of the Oklahoma Capitol Patrol  
15 Division of the Department of Public Safety who became members of  
16 the System effective July 1, 1993, any service credited under the  
17 Oklahoma Public Employees Retirement System as of June 30, 1993, and  
18 for all commissioned officers in the Gunsmith/Ammunition Reloader  
19 Division of the Department of Public Safety who became members of  
20 the System effective July 1, 1994, any service credited under the  
21 Oklahoma Public Employees Retirement System as of June 30, 1994, and  
22 for the park managers or park supervisors of the Oklahoma Tourism  
23 and Recreation Department who were employed in such a position prior

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1 to July 1, 1985, and who elect to become members of the System  
2 effective September 1, 1996, any service transferred pursuant to  
3 subsection C of Section 2-309.6 of this title and any service  
4 purchased pursuant to subsection B of Section 2-307.2 of this title.  
5 Effective August 5, 1993, an authorized leave of absence shall  
6 include a period of absence pursuant to the Family and Medical Leave  
7 Act of 1993;

8 11. "Disability" means a physical or mental condition which, in  
9 the judgment of the Board, totally and presumably permanently  
10 prevents the member from engaging in the usual and customary duties  
11 of the occupation of the member and thereafter prevents the member  
12 from performing the duties of any occupation or service for which  
13 the member is qualified by reason of training, education or  
14 experience. A person is not under a disability when capable of  
15 performing a service to the employer, regardless of occupation,  
16 providing the salary of the employee is not diminished thereby;

17 12. "Limitation year" means the year used in applying the  
18 limitations of Section 415 of the Internal Revenue Code of 1986,  
19 which year shall be the calendar year;

20 13. "Line of duty" means any action which a member whose  
21 primary function is crime control or reduction or enforcement of the  
22 criminal law is obligated or authorized by rule, regulations,  
23 condition of employment or service, or law to perform, including

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1 those social, ceremonial, or athletic functions to which the member  
2 is assigned, or for which the member is compensated, by the agency  
3 the member serves;

4 14. "Personal injury" or "injury" means any traumatic injury as  
5 well as diseases which are caused by or result from such an injury,  
6 but not occupational diseases;

7 15. "Catastrophic nature" means consequences of an injury that  
8 permanently prevent an individual from performing any gainful work;

9 16. "Traumatic injury" means a wound or a condition of the body  
10 caused by external force, including injuries inflicted by bullets,  
11 explosives, sharp instruments, blunt objects or other physical  
12 blows, chemicals, electricity, climatic conditions, infectious  
13 diseases, radiation, and bacteria, but excluding stress and strain;  
14 and

15 17. "Beneficiary" means the individual designated by the member  
16 on a beneficiary designation form supplied by the Oklahoma Law  
17 Enforcement Retirement System, or if there is no designated  
18 beneficiary or if the designated beneficiary predeceases the member,  
19 the estate of the member. If the member's spouse is not designated  
20 as the sole primary beneficiary, the member's spouse must sign a  
21 consent.

22 SECTION 2. AMENDATORY 47 O.S. 2001, Section 2-304, is  
23 amended to read as follows:

1 Section 2-304. A. The Department of Public Safety, the  
2 Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of  
3 Narcotics and Dangerous Drugs Control, the Oklahoma Alcoholic  
4 Beverage Control Board, the Oklahoma Tourism and Recreation  
5 Department and the Oklahoma State Board of Pharmacy shall make  
6 contributions to the fund as follows:

7 The Department of Public Safety, Oklahoma State Bureau of  
8 Investigation, Oklahoma State Bureau of Narcotics and Dangerous  
9 Drugs Control, the Oklahoma Alcoholic Beverage Control Board, the  
10 Oklahoma Tourism and Recreation Department and the Oklahoma State  
11 Board of Pharmacy shall contribute to the fund an amount equal to  
12 ten percent (10%) of the actual paid base salary of each member.

13 B. ~~Each~~ With respect to a member whose initial employment and  
14 participating service in the System occurred prior to November 1,  
15 2011, each member of the System shall make contributions to the fund  
16 in an amount equal to eight percent (8%) of the actual paid base  
17 salary of the member. With respect to a member whose initial  
18 employment and participating service in the System occurs on or  
19 after November 1, 2011, each member of the System shall make  
20 contributions to the fund in an amount equal to twelve percent (12%)  
21 of the actual paid base salary of the member.

22 Member contributions shall be deducted by each participating  
23 employer for such benefits as the Board is by law authorized to

1 administer and shall be remitted monthly, or as the Board may  
2 otherwise provide, for deposit in the fund.

3 C. Each employer shall pick up under the provisions of Section  
4 414(h)(2) of the Internal Revenue Code of 1986 and pay the  
5 contribution which the member is required by law to make to the  
6 System for all compensation earned after December 31, 1989. Although  
7 the contributions so picked up are designated as member  
8 contributions, such contributions shall be treated as contributions  
9 being paid by the employer in lieu of contributions by the member in  
10 determining tax treatment under the Internal Revenue Code of 1986  
11 and such picked up contributions shall not be includable in the  
12 gross income of the member until such amounts are distributed or  
13 made available to the member or the beneficiary of the member. The  
14 member, by the terms of this System, shall not have any option to  
15 choose to receive the contributions so picked up directly and the  
16 picked up contributions must be paid by the employer to the System.

17 Member contributions which are picked up shall be treated in the  
18 same manner and to the same extent as member contributions made  
19 prior to the date on which member contributions were picked up by  
20 the participating employer. Member contributions so picked up shall  
21 be included in gross salary for purposes of determining benefits and  
22 contributions under the System.

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1 The employer shall pay the member contributions from the same  
 2 source of funds used in paying salary to the member, by effecting an  
 3 equal cash reduction in gross salary of the member.

4 SECTION 3. AMENDATORY 47 O.S. 2001, Section 2-305, as  
 5 last amended by Section 10, Chapter 438, O.S.L. 2010 (47 O.S. Supp.  
 6 2010, Section 2-305), is amended to read as follows:

7 Section 2-305. A. Except as otherwise provided in this title,  
 8 at any time after attaining normal retirement date, any member of  
 9 the Oklahoma Law Enforcement Retirement System upon application for  
 10 unreduced retirement benefits made and approved, may retire, and,  
 11 during the remainder of the member's lifetime, receive annual  
 12 retirement pay, payable in equal monthly payments, equal to two and  
 13 one-half percent (2 1/2%) of the final average salary times years of  
 14 credited service with respect to a member whose initial employment  
 15 and participating service in the System occurred prior to November  
 16 1, 2011. With respect to a member whose initial employment and  
 17 participating service in the System occurs on or after November 1,  
 18 2011, except as otherwise provided in this title, at any time after  
 19 attaining normal retirement date, such member of the Oklahoma Law  
 20 Enforcement Retirement System upon application for unreduced  
 21 retirement benefits made and approved, may retire, and, during the  
 22 remainder of the member's lifetime, receive annual retirement pay,  
 23 payable in equal monthly payments, equal to two percent (2%) of the

1 final average salary times years of credited service. If such  
2 retired member is reemployed by a state agency in a position which  
3 is not covered by the System, such retired member shall continue to  
4 receive in-service distributions from the System. Prior to  
5 September 19, 2002, if such retired member was reemployed by a state  
6 agency in a position which is covered by the System, such member  
7 shall continue to receive in-service distributions from the System  
8 and shall not accrue any further credited service. If such a member  
9 is reemployed by a state agency in a position which is covered by  
10 the System on or after September 19, 2002, such member's monthly  
11 retirement payments shall be suspended until such member retires and  
12 is not reemployed by a state agency in a position which is covered  
13 by the System.

14 B. Beginning July 1, 1994, members who retired or were eligible  
15 to retire prior to July 1, 1980 or their surviving spouses shall  
16 receive annual retirement pay, payable in equal monthly payments,  
17 equal to the greater of their current retirement pay, or two and  
18 one-half percent (2 1/2%) of the actual paid gross salary being  
19 currently paid to a highway patrol officer, at the time each such  
20 monthly retirement payment is made, multiplied by the retired  
21 member's years of credited service. The provisions of this  
22 subsection shall not be applicable to a member whose initial

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1 employment and participation in the System occurs on or after  
 2 November 1, 2011.

3 C. ~~Members~~ Except with respect to members whose initial  
 4 employment and participation in the System occurs on or after  
 5 November 1, 2011, members of the System whose salary is set by  
 6 statute who have retired after completion of the mandatory twenty  
 7 (20) years of service, and those members with statutory salaries who  
 8 retire after reaching the mandatory twenty-year retirement, shall  
 9 receive an annual retirement pay, payable in equal monthly  
 10 installments, based upon the greater of either:

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

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

21 2. The member's final average salary as set forth in paragraph  
 22 9 of Section 2-300 of this title, multiplied by two and one-half  
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1 percent (2 1/2%), and multiplied by the number of years of credited  
2 service and fraction thereof.

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

6 D. ~~Other~~ Except with respect to members whose initial  
7 employment and participation in the System occurs on or after  
8 November 1, 2011, other members of the System whose retirement  
9 benefit is not otherwise prescribed by this section who have retired  
10 after completion of the mandatory twenty (20) years of service, and  
11 those members who retire after reaching the mandatory twenty-year  
12 retirement, shall receive an annual retirement pay, payable in equal  
13 monthly payments, based upon the greater of either:

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

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

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

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

17 E. A member who meets the definition of disability as defined  
18 in paragraph 11 of Section 2-300 of this title by direct reason of  
19 the performance of the member's duties as an officer shall receive a  
20 monthly benefit equal to the greater of fifty percent (50%) of final  
21 average salary or two and one-half percent (2 1/2%) of final average  
22 salary multiplied by the number of years of the member's credited  
23 service. If such member participates in the Oklahoma Law

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

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

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

11 2. Multiplied by:

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

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

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

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

1 shall be adjusted as provided in Section 2-305.2 of this title to  
2 account for such member's participation in the Oklahoma Law  
3 Enforcement Deferred Option Plan.

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

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

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

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

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

22 K. At the postoffer, preemployment physical examination  
23 required under paragraph 6 of Section 2-300 of this title, the

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

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

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

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

22 N. If the requirements of Section 2-305.1C of this title are  
23 satisfied, a member who, by reason of disability or attainment of  
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1 normal retirement date or age, is separated from service as a public  
 2 safety officer with the member's participating employer may elect to  
 3 have payment made directly to the provider for qualified health  
 4 insurance premiums by deduction from his or her monthly disability  
 5 benefit or monthly retirement payment, after December 31, 2006, in  
 6 accordance with Section 402(1) of the Internal Revenue Code of 1986,  
 7 as amended.

8 SECTION 4. AMENDATORY 47 O.S. 2001, Section 2-305.2, as  
 9 last amended by Section 11, Chapter 437, O.S.L. 2010 (47 O.S. Supp.  
 10 2010, Section 2-305.2), is amended to read as follows:

11 Section 2-305.2 A. In lieu of terminating employment and  
 12 accepting a service retirement pension pursuant to Section 2-305 of  
 13 this title, any member of the Oklahoma Law Enforcement Retirement  
 14 System, except a member of the System whose initial employment and  
 15 participation in the System occurs on or after November 1, 2011,  
 16 who has not less than twenty (20) years of participating service and  
 17 who is eligible to receive a service retirement pension may make an  
 18 irrevocable election to participate in the Oklahoma Law Enforcement  
 19 Deferred Option Plan and defer the receipts of benefits in  
 20 accordance with the provisions of this section.

21 B. For purposes of this section, participating service shall  
 22 include service credit recognized pursuant to paragraphs (c) and (d)  
 23 of Section 2-307, subsection B of Section 2-307.2, and Sections 2-

1 309.1, 2-309.2, 2-309.3, 2-309.4, 2-309.5, 2-309.6 and 2-309.7 of  
2 this title but for eligibility purposes only.

3 C. The duration of participation in the Oklahoma Law  
4 Enforcement Deferred Option Plan for a member shall not exceed five  
5 (5) years. Participation in the Oklahoma Law Enforcement Deferred  
6 Option Plan must begin the first day of a month and end on the last  
7 day of the month. At the conclusion of a member's participation in  
8 the Oklahoma Law Enforcement Deferred Option Plan, the member shall  
9 terminate employment as a member of the Oklahoma Law Enforcement  
10 Retirement System, and shall start receiving the member's accrued  
11 monthly retirement benefit from the System. Such a member may  
12 continue to receive in-service distributions of such member's  
13 accrued monthly retirement benefit from the System if the member is  
14 reemployed by a state agency only if such reemployment is in a  
15 position not covered under the System.

16 D. When a member begins participation in the Oklahoma Law  
17 Enforcement Deferred Option Plan, the contribution of the member  
18 shall cease. The employer contributions shall continue to be paid  
19 in accordance with Section 2-304 of this title. Employer  
20 contributions for members who elect the Oklahoma Law Enforcement  
21 Deferred Option Plan shall be credited equally to the Oklahoma Law  
22 Enforcement Retirement System and to the member's Oklahoma Law  
23 Enforcement Deferred Option Plan account. The monthly retirement  
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1 benefits that would have been payable had the member elected to  
2 cease employment and receive a service retirement shall be paid into  
3 the member's Oklahoma Law Enforcement Deferred Option Plan account.

4 E. 1. A member who participates in this plan shall be eligible  
5 to receive cost of living increases.

6 2. A member who participates in this plan shall earn interest  
7 at a rate of two percentage points below the rate of return of the  
8 investment portfolio of the System, but no less than the actuarial  
9 assumed interest rate as certified by the actuary in the yearly  
10 evaluation report of the actuary. The interest shall be credited to  
11 the individual account balance of the member on an annual basis.

12 F. A member in the Oklahoma Law Enforcement Deferred Option  
13 Plan shall receive, at the option of the member:

14 1. A lump-sum payment from the account equal to the option  
15 account balance of the member, payable to the member;

16 2. A lump-sum payment from the account equal to the option  
17 account balance of the member, payable to the annuity provider which  
18 shall be selected by the member as a result of the research and  
19 investigation of the member; or

20 3. Any other method of payment if approved by the Board.

21 Notwithstanding any other provision contained herein to the  
22 contrary, commencement of distributions under the Oklahoma Law  
23  
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1 Enforcement Deferred Option Plan shall be no later than the time as  
2 set forth in paragraph 7 of Section 2-300 of this title.

3 If a member meets the definition of disability as defined in  
4 paragraph 11 of Section 2-300 of this title by direct reason of the  
5 performance of the member's duties, the payment from the account  
6 shall be an in-line-of-duty disability payment.

7 G. If the member dies during the period of participation in the  
8 Oklahoma Law Enforcement Deferred Option Plan, a lump-sum payment  
9 equal to the account balance of the member shall be paid to the  
10 designated beneficiary as defined in paragraph 17 of Section 2-300  
11 of this title, or if there is no designated beneficiary or the  
12 designated beneficiary predeceases the member, to the estate of the  
13 member. If such member was receiving, or eligible to receive, an  
14 in-line-of-duty disability pension pursuant to subsection E or F of  
15 Section 2-305 of this title at the time of death, payment of the  
16 account balance shall be an in-line-of-duty disability payment.

17 H. In lieu of participating in the Oklahoma Law Enforcement  
18 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of  
19 this section, a member, except a member of the System whose initial  
20 employment and participation in the System occurs on or after  
21 November 1, 2011, may make an irrevocable election to participate in  
22 the Oklahoma Law Enforcement Deferred Option Plan pursuant to this  
23 subsection as follows:

1 1. For purposes of this subsection, the following definitions  
2 shall apply:

3 a. "back drop date" means the date selected by the member  
4 which is up to five (5) years before the member elects  
5 to participate in the Oklahoma Law Enforcement  
6 Deferred Option Plan, but not before the date at which  
7 the member completes twenty (20) years of  
8 participating service,

9 b. "termination date" means the date the member elects to  
10 participate in the Oklahoma Law Enforcement Deferred  
11 Option Plan pursuant to this subsection and the date  
12 the member terminates employment and starts receiving  
13 the member's accrued monthly retirement benefit from  
14 the System. Such termination has at all times  
15 included reemployment of a member by a state agency,  
16 but only in a position not covered under the System,

17 c. "earlier attained participating service" means the  
18 participating service earned by a member as of the  
19 back drop date. Earlier attained participating  
20 service cannot be reduced to less than twenty (20)  
21 years of participating service, and

22 d. "deferred benefit balance" means all retirement  
23 benefits that would have been paid from the back drop  
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1 date to the termination date, and one half (1/2) of  
2 the employer contributions from the back drop date to  
3 the termination date, with interest based on how the  
4 benefit would have accumulated on a compound annual  
5 basis as if the member had participated in the  
6 Oklahoma Law Enforcement Deferred Option Plan pursuant  
7 to subsections A, B, C, D and E of this section from  
8 the back drop date to the termination date;

9 2. At the termination date, a member's monthly pension benefit  
10 shall be determined based on the earlier attained participating  
11 service and on the final average salary as of the back drop date.  
12 The member's individual deferred option account shall be credited  
13 with an amount equal to the deferred benefit balance; the member  
14 shall terminate employment and shall start receiving the member's  
15 accrued monthly retirement benefit from the System. The member  
16 shall, upon application filed with the Board, be refunded from the  
17 fund an amount equal to the accumulated contributions the member  
18 made to the fund from the back drop date to the termination date,  
19 but excluding any interest. Such termination has at all times  
20 included reemployment of a member by a state agency, but only in a  
21 position not covered under the System. The provisions of  
22 subsections B, C, E, F and G of this section shall apply to this  
23 subsection; and

1           3. A member may participate in the Oklahoma Law Enforcement  
2 Deferred Option Plan pursuant to this subsection even if the member  
3 has elected to participate in the Oklahoma Law Enforcement Deferred  
4 Option Plan pursuant to subsections A, B, C, D, E and F of this  
5 section. Such a member may select a back drop date which is up to  
6 five (5) years prior to the termination date, but not before the  
7 date at which the member completes twenty (20) years of  
8 participating service. Such a member's participation in the  
9 Oklahoma Law Enforcement Deferred Option Plan may not exceed five  
10 (5) years when combined with such a member's prior period of  
11 participation in the Oklahoma Law Enforcement Deferred Option Plan.  
12 The provisions of subsections B, C, E, F and G of this section shall  
13 apply to this subsection.

14           SECTION 5. This act shall become effective November 1, 2011.  
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16 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM AND  
17 FINANCIAL SERVICES, dated 02-17-2011 - DO PASS, As Coauthored.  
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