

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2952

By: McDaniel (Randy) of the
House

and

Anderson of the Senate

COMMITTEE SUBSTITUTE

An Act relating to public retirement systems;
amending 47 O.S. 2011, Sections 2-304 and 2-305,
which relate to the Oklahoma Law Enforcement
Retirement System; modifying employer contribution
rate; modifying employee contribution rate; modifying
provisions related to retirement benefit computation
for certain members; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 2-304, is
amended to read as follows:

Section 2-304. A. The Department of Public Safety, the
Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of
Narcotics and Dangerous Drugs Control, the Oklahoma Alcoholic

1 Beverage Control Board, the Oklahoma Tourism and Recreation
2 Department and the Oklahoma State Board of Pharmacy shall make
3 contributions to the fund as follows:

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

11 B. Each member of the System shall make contributions to the
12 fund in an amount equal to ~~eight percent (8%)~~ nine percent (9%) of
13 the actual paid base salary of the member.

14 Member contributions shall be deducted by each participating
15 employer for such benefits as the Board is by law authorized to
16 administer and shall be remitted monthly, or as the Board may
17 otherwise provide, for deposit in the fund.

18 C. Each employer shall pick up under the provisions of Section
19 414(h) (2) of the Internal Revenue Code of 1986 and pay the
20 contribution which the member is required by law to make to the
21 System for all compensation earned after December 31, 1989.

22 Although the contributions so picked up are designated as member
23 contributions, such contributions shall be treated as contributions

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1 being paid by the employer in lieu of contributions by the member in
2 determining tax treatment under the Internal Revenue Code of 1986
3 and such picked up contributions shall not be includable in the
4 gross income of the member until such amounts are distributed or
5 made available to the member or the beneficiary of the member. The
6 member, by the terms of this System, shall not have any option to
7 choose to receive the contributions so picked up directly and the
8 picked up contributions must be paid by the employer to the System.

9 Member contributions which are picked up shall be treated in the
10 same manner and to the same extent as member contributions made
11 prior to the date on which member contributions were picked up by
12 the participating employer. Member contributions so picked up shall
13 be included in gross salary for purposes of determining benefits and
14 contributions under the System.

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

18 SECTION 2. AMENDATORY 47 O.S. 2011, Section 2-305, is
19 amended to read as follows:

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

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

1 C. ~~Members~~ Except as otherwise provided by this subsection,
2 members of the System whose salary is set by statute who have
3 retired after completion of the mandatory twenty (20) years of
4 service, and those members with statutory salaries who retire after
5 reaching the mandatory twenty-year retirement, shall receive an
6 annual retirement pay, payable in equal monthly installments, based
7 upon the greater of either:

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

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

18 2. The member's final average salary as set forth in paragraph
19 9 of Section 2-300 of this title, multiplied by two and one-half
20 percent (2 1/2%), and multiplied by the number of years of credited
21 service and fraction thereof.

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

4 The provisions of paragraph 1 of this subsection shall not be
5 applicable to any member whose first participating service with the
6 System occurs on or after November 1, 2012.

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

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

- 18 a. Alcoholic Beverage Laws Enforcement Commission-ABLE
19 Commission Agent III,
20 b. Oklahoma State Bureau of Narcotics and Dangerous Drugs
21 Control-Narcotics Agent III,
22 c. Oklahoma Tourism and Recreation Department-Park Ranger
23 II,

- 1 d. ~~Oklahoma~~ State Board of Pharmacy-Pharmacy Inspector,
2 e. University of Oklahoma-Police Officer,
3 f. Oklahoma State University-Police Officer; or

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

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

15 E. A member who meets the definition of disability as defined
16 in paragraph 11 of Section 2-300 of this title by direct reason of
17 the performance of the member's duties as an officer shall receive a
18 monthly benefit equal to the greater of fifty percent (50%) of final
19 average salary or two and one-half percent (2 1/2%) of final average
20 salary multiplied by the number of years of the member's credited
21 service. If such member participates in the Oklahoma Law
22 Enforcement Deferred Option Plan pursuant to Section 2-305.2 of this
23 title, then such member's disability pension provided pursuant to

1 this subsection shall be reduced to account for such member's
2 participation in the Oklahoma Law Enforcement Deferred Option Plan.

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

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

9 2. Multiplied by:

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

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

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

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

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

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

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

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

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

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

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

21 K. At the postoffer, preemployment physical examination
22 required under paragraph 6 of Section 2-300 of this title, the
23 physician selected by the Board shall determine the extent to which

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

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

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

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

7 SECTION 3. This act shall become effective November 1, 2012.

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9 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM AND
10 FINANCIAL SERVICES, dated 03/01/2012 - DO PASS, As Amended and
Coauthored.

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