HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1538

By: Thomsen and McDaniel (Randy) of the House

and

Barrington of the Senate

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Law Enforcement Retirement System; amending 47 O.S. 2011, Section 2-305, as last amended by Section 1, Chapter 318, O.S.L. 2013 (47 O.S. Supp. 2015, Section 2-305), which relates to benefit computations; providing for computation of benefits based upon disability; providing for computation of benefits for persons retired prior to designated date; providing for computation of benefits for persons who retire on or after designated date; making appropriation from the Special Cash Fund; prescribing amount and purpose; providing concurrent funding pursuant to the Oklahoma Pension Legislation Actuarial Analysis Act; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 2-305, as last amended by Section 1, Chapter 318, O.S.L. 2013 (47 O.S. Supp. 2015, Section 2-305), is amended to read as follows:

Section 2-305. A. Except as otherwise provided in this title, at any time after attaining normal retirement date, any member of the Oklahoma Law Enforcement Retirement System upon application for unreduced retirement benefits made and approved, may retire, and, during the remainder of the member's lifetime, receive annual retirement pay, payable in equal monthly payments, equal to two and one-half percent (2 1/2%) of the final average salary times years of credited service. If such retired member is reemployed by a state agency in a position which is not covered by the System, such retired member shall continue to receive in-service distributions from the System. Prior to September 19, 2002, if such retired member was reemployed by a state agency in a position which is covered by the System, such member shall continue to receive in-service distributions from the System and shall not accrue any further credited service. If such a member is reemployed by a state agency in a position which is covered by the System on or after September 19, 2002, such member's monthly retirement payments shall be suspended until such member retires and is not reemployed by a state agency in a position which is covered by the System.

B. Beginning July 1, 1994, members who retired or were eligible to retire prior to July 1, 1980, or their surviving spouses shall receive annual retirement pay, payable in equal monthly payments, equal to the greater of their current retirement pay, or two and one-half percent (2 1/2%) of the actual paid gross salary being

currently paid to a highway patrol officer, at the time each such monthly retirement payment is made, multiplied by the retired member's years of credited service.

C. Except as otherwise provided by this subsection, members of the System whose salary is set by statute who have retired after completion of the mandatory twenty (20) years of service, and those members with statutory salaries who retire after reaching the mandatory twenty-year retirement, <u>and beginning January 1, 2015, those members who have retired or retire with a service-connected disability pursuant to subsection E of this section,</u> shall receive an annual retirement pay, payable in equal monthly installments, based upon the greater of either:

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

a. Oklahoma Highway Patrolman,

b. Communications Dispatcher,

c. Capitol Patrolman,

d. Lake Patrolman,

e. Oklahoma State Bureau of Investigation - Special Agent or Criminalist; or

2. The member's final average salary as set forth in paragraph 9 of Section 2-300 of this title, multiplied by two and one-half

percent (2 1/2%), and multiplied by the number of years of credited service and fraction thereof.

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

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

D. Other members of the System whose retirement benefit is not otherwise prescribed by this section who have retired after completion of the mandatory twenty (20) years of service, and those members who retire after reaching the mandatory twenty-year retirement, <u>and beginning January 1, 2015, those members who have retired or retire with a service-connected disability pursuant to subsection E of this section,</u> shall receive an annual retirement pay, payable in equal monthly payments, based upon the greater of either:

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

a. Alcoholic Beverage Laws Enforcement Commission - ABLE Commission Agent III,

b. Oklahoma State Bureau of Narcotics and Dangerous Drugs Control - Narcotics Agent III,

c. Oklahoma Tourism and Recreation Department - Park Ranger II,

d. State Board of Pharmacy - Pharmacy Inspector,

e. University of Oklahoma - Police Officer,

f. Oklahoma State University - Police Officer; or

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

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

The provisions of paragraph 1 of this subsection shall not be applicable to any member whose first participating service with the System occurs on or after ~~the effective date of this act~~ May 24, 2013.

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

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

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

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

2. Multiplied by:

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

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

3. Multiplied by a final average salary equal to:

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

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

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

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

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

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

the Board a detailed written report of the injury or illness of the examined member establishing the extent of disability and the possibilities of the disabled member being returned to his or her regular duties or an alternate occupation or service covered by the System after a normal recuperation period. The Board shall require all retired disabled members who have not attained their normal retirement date to submit to a physical examination once each year for a minimum of three (3) years following retirement. The Board shall select a minimum of two physicians to examine the retired members and pay for their services from the fund. Any retired disabled member found no longer disabled by the examining physicians to perform the occupation of the member or an alternate occupation or service covered by the System shall be required to return to duty and complete twenty (20) years of service as provided in subsection A of this section, or forfeit all his or her rights and claims under Section 2-300 et seq. of this title.

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

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

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

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

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

N. If the requirements of Section 2-305.1C of this title are satisfied, a member who, by reason of disability or attainment of

normal retirement date or age, is separated from service as a public safety officer with the member's participating employer may elect to have payment made directly to the provider for qualified health insurance premiums by deduction from his or her monthly disability benefit or monthly retirement payment, after December 31, 2006, in accordance with Section 402(1) of the Internal Revenue Code of 1986, as amended.

SECTION 2. There is hereby appropriated to the Oklahoma Law Enforcement System from any monies not otherwise appropriated from the Special Cash Fund of the State Treasury, the sum of Three Million Six Hundred Ninety-four Thousand Dollars ($3,694,000.00) to provide concurrent funding required by the Oklahoma Pension Legislation Actuarial Analysis Act for the benefit authorized by Section 1 of this act.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, LABOR AND RETIREMENT LAWS, dated 02/24/2016 - DO PASS, As Amended and Coauthored.