

SENATE FLOOR VERSION

April 10, 2017

ENGROSSED HOUSE
BILL NO. 1163By: Vaughan and McDaniel of the
House

and

Simpson of the Senate

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. 2016, Section 2-305), which relates to retirement benefits; modifying provision related to computation of retirement benefit; modifying requirements related to disability applications; prohibiting disability benefits after specific period of time; 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. 2016, 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

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.

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

23 C. Except as otherwise provided by this subsection, members of
24 the System whose salary is set by statute who have retired after

1 completion of the mandatory twenty (20) years of service, and those
2 members with statutory salaries who retire after reaching the
3 mandatory twenty-year retirement, shall receive an annual retirement
4 pay, payable in equal monthly installments, based upon the greater
5 of either:

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

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

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

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

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

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

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

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

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

21 d. State Board of Pharmacy - Pharmacy Inspector,

22 e. University of Oklahoma - Police Officer, and

23 f. Oklahoma State University - Police Officer; or
24

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

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

12 The provisions of paragraph 1 of this subsection shall not be
13 applicable to any member whose first participating service with the
14 System occurs on or after the effective date of this act.

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
24

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
24 of service prior to disability shall be computed

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

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

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

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

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

14 I. For the purpose of determining the member's disability under
15 subsection E, F or G of this section, the member shall be required
16 by the Board to be examined by a minimum of two recognized
17 physicians selected by the Board to determine the extent of the
18 member's injury or illness. The examining physicians shall furnish
19 the Board a detailed written report of the injury or illness of the
20 examined member establishing the extent of disability and the
21 possibilities of the disabled member being returned to his or her
22 regular duties or an alternate occupation or service covered by the
23 System after a normal recuperation period. The Board shall require
24 all retired disabled members who have not attained their normal

1 retirement date to submit to a physical examination once each year
2 for a minimum of three (3) years following retirement. The Board
3 shall select a minimum of two physicians to examine the retired
4 members and pay for their services from the fund. Any retired
5 disabled member found no longer disabled by the examining physicians
6 to perform the occupation of the member or an alternate occupation
7 or service covered by the System shall be required to return to duty
8 and complete twenty (20) years of service as provided in subsection
9 A of this section, or forfeit all his or her rights and claims under
10 Section 2-300 et seq. of this title.

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

18 K. At the postoffer, preemployment physical examination
19 required under paragraph 6 of Section 2-300 of this title, the
20 physician selected by the Board shall determine the extent to which
21 a new member is disabled. If a member is determined to be partially
22 disabled, the physician shall assign a percentage of disability to
23 such partial disability. If such member then becomes entitled to a
24 disability benefit under either subsection E or subsection G of this

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

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

1 M. Notwithstanding any other provisions in Section 2-300
2 through 2-315 of this title, in order to be eligible to receive
3 disability benefits, a member who meets the definition of disability
4 as defined in paragraph 11 of Section 2-300 of this title shall file
5 the member's completed application for disability benefits with the
6 System before such member's date of termination from service and
7 provide such additional information that the System's rules require
8 within six (6) months of the System's receipt of such application.
9 If the member's completed application for disability benefits is not
10 filed with the System before the member's date of termination from
11 service or such additional information as is required under the
12 System's rules is not provided within six (6) months of the System's
13 receipt of such application, such member shall be eligible only for
14 such other benefits as are available to members of the System and
15 shall not be eligible to receive any disability benefits. For good
16 cause shown, the Board of Trustees may waive the requirement that
17 the disability application be filed before the member's date of
18 termination from service. In no event shall a member be eligible to
19 receive any disability benefit if the member's completed application
20 is filed more than six (6) months after the member's date of
21 termination from service.

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
24 normal retirement date or age, is separated from service as a public

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

11 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
12 April 10, 2017 - DO PASS
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