

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1447

By: Roberts (Dustin)

AS INTRODUCED

An Act relating to the 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 pay and disability benefits; modifying calculation of certain disability benefits; amending 47 O.S. 2011, Section 2-310.2, which relates to administrative leave pay; requiring administrative leave under certain conditions; modifying eligibility for administrative leave pay; eliminating required use of certain leave; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 2-305, 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 currently paid to an active member, at the
7 time each such monthly retirement payment is made, multiplied by two
8 and one-half percent (2 1/2%) multiplied by the number of years of
9 credited service and fraction thereof for the following positions:

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

16 2. The member's final average salary as set forth in paragraph
17 9 of Section 2-300 of this title, multiplied by two and one-half
18 percent (2 1/2%), and multiplied by the number of years of credited
19 service and fraction thereof.

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

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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,
 - 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 the top base pay currently paid to an active member
20 or two and one-half percent (2 1/2%) of final average salary
21 multiplied by the number of years of the member's credited service.
22 If such member participates in the Oklahoma Law Enforcement Deferred
23 Option Plan pursuant to Section 2-305.2 of this title, then such
24 member's disability pension provided pursuant to this subsection

1 shall be reduced to account for such member's participation in the
2 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

20 The salary which the member would have received pursuant to
21 statutory salary schedules in effect upon the date of the disability
22 for twenty (20) years of service prior to disability. The final
23 average salary for a member who performed less than twenty (20)
24 years of service prior to disability shall be computed assuming that

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

12 ~~b. the~~

13 2. The actual final average salary of the member if the member
14 had performed twenty (20) or more years of service prior to
15 disability.

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

22 G. A member who meets the definition of disability as defined
23 in Section 2-300 of this title and whose disability occurred prior
24 to the member's normal retirement date but after completing three

1 (3) years of vesting service and not by reason of the performance of
2 the member's duties or as a result of the member's willful
3 negligence shall receive a monthly benefit equal to two and one-half
4 percent (2 1/2%) of final average salary multiplied by the number of
5 years of the member's credited service.

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

11 I. For the purpose of determining the member's disability under
12 subsection E, F or G of this section, the member shall be required
13 by the Board to be examined by a minimum of two recognized
14 physicians selected by the Board to determine the extent of the
15 member's injury or illness. The examining physicians shall furnish
16 the Board a detailed written report of the injury or illness of the
17 examined member establishing the extent of disability and the
18 possibilities of the disabled member being returned to his or her
19 regular duties or an alternate occupation or service covered by the
20 System after a normal recuperation period. The Board shall require
21 all retired disabled members who have not attained their normal
22 retirement date to submit to a physical examination once each year
23 for a minimum of three (3) years following retirement. The Board
24 shall select a minimum of two physicians to examine the retired

1 members and pay for their services from the fund. Any retired
2 disabled member found no longer disabled by the examining physicians
3 to perform the occupation of the member or an alternate occupation
4 or service covered by the System shall be required to return to duty
5 and complete twenty (20) years of service as provided in subsection
6 A of this section, or forfeit all his or her rights and claims under
7 Section 2-300 et seq. of this title.

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

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

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

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

22 M. Notwithstanding any other provisions in Section 2-300
23 through 2-315 of this title, in order to be eligible to receive
24 disability benefits, a member who meets the definition of disability

1 as defined in paragraph 11 of Section 2-300 of this title shall file
2 the member's completed application for disability benefits with the
3 System before such member's date of termination from service and
4 provide such additional information that the System's rules require
5 within six (6) months of the System's receipt of such application.
6 If the member's completed application for disability benefits is not
7 filed with the System before the member's date of termination from
8 service or such additional information as is required under the
9 System's rules is not provided within six (6) months of the System's
10 receipt of such application, such member shall be eligible only for
11 such other benefits as are available to members of the System and
12 shall not be eligible to receive any disability benefits.

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

22 SECTION 2. AMENDATORY 47 O.S. 2011, Section 2-310.2, is
23 amended to read as follows:

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1 Section 2-310.2 Whenever any member of the Oklahoma Law
2 Enforcement Retirement System currently working in a position
3 identified by paragraph 6 of Section 2-300 of ~~Title 47 of the~~
4 ~~Oklahoma Statutes~~ this title who is enrolled in the Oklahoma Law
5 Enforcement Retirement System is unable to perform the member's
6 duties because of sickness or temporary disability caused or
7 sustained while in the discharge of the member's duty as such
8 member, notwithstanding the provisions of Section 840-2.21 of Title
9 74 of the Oklahoma Statutes or the provisions of Sections 11 and 12
10 of Title 85 of the Oklahoma Statutes, the member ~~may~~ shall be placed
11 on administrative leave with pay by the employing agency ~~for a~~
12 ~~period of ninety (90) days with the employing agency having the~~
13 ~~option of extending the leave period for up to an additional ninety~~
14 ~~(90) days, not to exceed a total of one hundred eighty (180) days~~
15 until the member is fit to perform the member's duties or has been
16 declared by the Board to meet the definition of disability as
17 defined in paragraph 11 of Section 2-300 of this title. The
18 member's salary and benefits shall continue to be paid by the
19 employing agency without any decrease or disruption of said salary
20 and benefits. ~~If the recovery period is longer than one hundred~~
21 ~~eighty (180) days, the member shall use sick leave, annual leave or~~
22 ~~other authorized leave.~~ Should a member receiving a salary under
23 this section be eligible to receive and should the salary of the
24 member under this section exceed any temporary disability benefit

1 paid to the member under Section 1 et seq. of Title 85 of the
2 Oklahoma Statutes, the member shall transfer such temporary
3 disability benefits under Section 1 et seq. of Title 85 of the
4 Oklahoma Statutes to the employing agency while the member is sick
5 or temporarily disabled.

6 SECTION 3. This act shall become effective November 1, 2017.

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January 16, 2017

Representative Dustin Roberts
Room 303

Re: RBH No. 6650

RBH No. 6650 would increase the in line of duty disability benefit for participants of the Oklahoma Law Enforcement Retirement System to 100% of final average salary. The current benefit is 50% of final average salary for disabled prior to completion of 20 years of service. For those disabled after 20 years the benefit is 2.5% times years of service, not to exceed 30 years.

RBH No. 6650 is a retirement bill having a fiscal impact as defined by the Oklahoma Pension Legislation Analysis Act.

I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Thomas E. Cummins

Thomas E. Cummins, MAAA