

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL NO. 874

By: Weaver

AS INTRODUCED

An Act relating to law enforcement retirement; amending 47 O.S. 2011, Section 2-305, as last amended by Section 3, Chapter 44, O.S.L. 2018 (47 O.S. Supp. 2018, Section 2-305), which relates to retirement pay; providing offset for certain benefits; providing for a cost-of-living-adjustment to certain employees; and providing for codification.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-305.12 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsection B of this section, any person receiving benefits from the Oklahoma Law Enforcement Retirement System as of June 30, 2019, who continues to receive benefits on or after July 1, 2020, shall receive a seven-percent increase in said benefits beginning in July 2020.

1 B. Any increase in benefits a person is eligible to receive
2 pursuant to subsection B, C or D of Section 2-305 of Title 47 of the
3 Oklahoma Statutes after June 30, 2020, shall be offset by the
4 increase in benefits, if any, provided by this section.

5 SECTION 2. AMENDATORY 47 O.S. 2011, Section 2-305, as
6 last amended by Section 3, Chapter 44, O.S.L. 2018 (47 O.S. Supp.
7 2018, Section 2-305), is amended to read as follows:

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

1 be suspended until such member retires and is not reemployed by a
2 state agency in a position which is covered by the System.

3 B. Beginning July 1, 1994, members who retired or were eligible
4 to retire prior to July 1, 1980, or their surviving spouses shall
5 receive annual retirement pay, payable in equal monthly payments,
6 equal to the greater of their current retirement pay, or two and
7 one-half percent (2 1/2%) of the actual paid gross salary being
8 currently paid to a highway patrol officer, at the time each such
9 monthly retirement payment is made, multiplied by the retired
10 member's years of credited service. The benefits provided for in
11 this subsection shall be offset by any increase in benefits received
12 pursuant to Section 1 of this act.

13 C. Except as otherwise provided by this subsection, members of
14 the System whose salary is set by statute who have retired after
15 completion of the mandatory twenty (20) years of service, and those
16 members with statutory salaries who retire after reaching the
17 mandatory twenty-year retirement, or those members that had to
18 retire due to a service-connected disability and were unable to
19 complete the mandatory twenty-year retirement pursuant to subsection
20 E of this section, shall receive an annual retirement pay, payable
21 in equal monthly installments, based upon the greater of either:

22 1. The top base salary currently paid to the highest
23 nonsupervisory position in the participating agency, at the time
24 each such monthly retirement payment is made, multiplied by two and

1 one-half percent (2 1/2%) multiplied by the number of years of
2 credited service and fraction thereof for the following positions:

- 3 a. Oklahoma Highway Patrolman,
- 4 b. Communications Dispatcher,
- 5 c. Capitol Patrolman,
- 6 d. Lake Patrolman, and
- 7 e. Oklahoma State Bureau of Investigation - Special Agent
8 or Criminalist; or

9 2. The member's final average salary as set forth in paragraph
10 9 of Section 2-300 of this title, multiplied by two and one-half
11 percent (2 1/2%), and multiplied by the number of years of credited
12 service and fraction thereof.

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

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

19 The benefits provided for in this subsection shall be offset by
20 any increase in benefits received pursuant to Section 1 of this act.

21 D. Other members of the System whose retirement benefit is not
22 otherwise prescribed by this section who have retired after
23 completion of the mandatory twenty (20) years of service, and those
24 members who retire after reaching the mandatory twenty-year

1 retirement, or those members that had to retire due to a service-
2 connected disability and were unable to complete the mandatory
3 twenty-year retirement pursuant to subsection E of this section,
4 shall receive an annual retirement pay, payable in equal monthly
5 payments, based upon the greater of either:

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

- 11 a. Alcoholic Beverage Laws Enforcement Commission - ABLE
12 Commission Agent III,
- 13 b. Oklahoma State Bureau of Narcotics and Dangerous Drugs
14 Control - Narcotics Agent III,
- 15 c. Oklahoma Tourism and Recreation Department - Park
16 Ranger II,
- 17 d. State Board of Pharmacy - Pharmacy Inspector,
- 18 e. University of Oklahoma - Police Officer, and
- 19 f. Oklahoma State University - Police Officer; or

20 2. The other member's final average salary as set forth in
21 paragraph 9 of Section 2-300 of this title, multiplied by two and
22 one-half percent (2 1/2%), multiplied by the number of years of
23 credited 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. The participating employer must certify to the
4 System in writing the actual average gross salary currently paid to
5 the highest nonsupervisory position. The Board of Trustees shall
6 promulgate such rules as are necessary to implement the provisions
7 of this section.

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

11 The benefits provided for in this subsection shall be offset by
12 any increase in benefits received pursuant to Section 1 of this act.

13 E. A member who meets the definition of disability as defined
14 in paragraph 11 of Section 2-300 of this title by direct reason of
15 the performance of the member's duties as an officer shall receive a
16 monthly benefit equal to the greater of fifty percent (50%) of final
17 average salary or two and one-half percent (2 1/2%) of final average
18 salary multiplied by the number of years of the member's credited
19 service. If such member participates in the Oklahoma Law
20 Enforcement Deferred Option Plan pursuant to Section 2-305.2 of this
21 title, then such member's disability pension provided pursuant to
22 this subsection shall be reduced to account for such member's
23 participation in the Oklahoma Law Enforcement Deferred Option Plan.
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1 F. A member who meets the definition of disability as defined
2 in paragraph 11 of Section 2-300 of this title and whose disability
3 is by means of personal and traumatic injury of a catastrophic
4 nature and in the line of duty, shall receive a monthly benefit
5 equal to:

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

7 2. Multiplied by:

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

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

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

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

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

- 13 b. the actual final average salary of the member if the
14 member had performed twenty (20) or more years of
15 service prior to 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
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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
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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. For good
13 cause shown, the Board of Trustees may waive the requirement that
14 the disability application be filed before the member's date of
15 termination from service. In no event shall a member be eligible to
16 receive any disability benefit if the member's completed application
17 is filed more than six (6) months after the member's date of
18 termination from service.

19 N. If the requirements of Section 2-305.1C of this title are
20 satisfied, a member who, by reason of disability or attainment of
21 normal retirement date or age, is separated from service as a public
22 safety officer with the member's participating employer may elect to
23 have payment made directly to the provider for qualified health
24 insurance premiums by deduction from his or her monthly disability

1 benefit or monthly retirement payment, after December 31, 2006, in
2 accordance with Section 402(1) of the Internal Revenue Code of 1986,
3 as amended.
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