

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL 889

By: Weaver

COMMITTEE SUBSTITUTE

An Act relating to law enforcement pension; amending 47 O.S. 2011, Section 2-300, as amended by Section 1, Chapter 383, O.S.L. 2015 (47 O.S. Supp. 2020, Section 2-300), which relates to definitions; modifying age for certain required distributions; modifying age at which certain distribution may be delayed; prohibiting delaying certain benefit beyond certain age; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 2-300, as amended by Section 1, Chapter 383, O.S.L. 2015 (47 O.S. Supp. 2020, Section 2-300), is amended to read as follows:

Section 2-300. As used in Section 2-300 et seq. of this title:

1. "System" means the Oklahoma Law Enforcement Retirement System;
2. "Act" means Section 2-300 et seq. of this title;
3. "Board" means the Oklahoma Law Enforcement Retirement Board of the System;

1        4. "Executive Director" means the managing officer of the  
2 System employed by the Board;

3        5. "Fund" means the Oklahoma Law Enforcement Retirement Fund;

4        6. a. "Member" means:

5                (1) all commissioned law enforcement officers of the  
6                        Oklahoma Highway Patrol Division of the  
7                        Department of Public Safety who have obtained  
8                        certification from the Council on Law Enforcement  
9                        Education and Training, and all cadets of a  
10                      Patrol Academy of the Department of Public  
11                      Safety,

12              (2) law enforcement officers and criminalists of the  
13                      Oklahoma State Bureau of Investigation,

14              (3) law enforcement officers of the Oklahoma State  
15                      Bureau of Narcotics and Dangerous Drugs Control  
16                      designated to perform duties in the investigation  
17                      and prevention of crime and the enforcement of  
18                      the criminal laws of this state,

19              (4) law enforcement officers of the Oklahoma  
20                      Alcoholic Beverage Laws Enforcement Commission  
21                      designated to perform duties in the investigation  
22                      and prevention of crime and the enforcement of  
23                      the criminal laws of this state,

- 1 (5) employees of the Communications Section of the  
2 Oklahoma Highway Patrol Division, radio  
3 technicians, and tower technicians of the  
4 Department of Public Safety, who are employed in  
5 any such capacity as of June 30, 2008, and who  
6 remain employed on or after July 1, 2008, until a  
7 termination of service, or until a termination of  
8 service with an election of a vested benefit from  
9 the System, or until retirement. Effective July  
10 1, 2008, a person employed for the first time as  
11 an employee of the Department of Public Safety in  
12 the Communications Division as an information  
13 systems telecommunication technician of the  
14 Department of Public Safety shall not be a member  
15 of the System,
- 16 (6) park rangers of the Oklahoma Tourism and  
17 Recreation Department and any park manager or  
18 park supervisor of the Oklahoma Tourism and  
19 Recreation Department, who was employed in such a  
20 position prior to July 1, 1985, and who elects on  
21 or before September 1, 1996, to participate in  
22 the System, and
- 23 (7) inspectors of the Board of Pharmacy.
- 24

1           b.    Effective July 1, 1987, a member does not include a  
2                "leased employee" as defined under Section 414(n) (2)  
3                of the Internal Revenue Code of 1986, as amended.  
4                Effective July 1, 1999, any individual who agrees with  
5                the participating employer that the individual's  
6                services are to be performed as a leased employee or  
7                an independent contractor shall not be a member  
8                regardless of any classification as a common-law  
9                employee by the Internal Revenue Service or any other  
10              governmental agency, or any court of competent  
11              jurisdiction.

12          c.    All persons who shall be offered a position of a  
13                commissioned law enforcement officer as an employee of  
14                one of the agencies described in subparagraph a of  
15                this paragraph shall participate in the System upon  
16                the person meeting the requisite post-offer-pre-  
17                employment physical examination standards which shall  
18                be subject to the following requirements:

19               (1) all such persons shall be of good moral  
20                character, free from deformities, mental or  
21                physical conditions, or disease and alcohol or  
22                drug addiction which would prohibit the person  
23                from performing the duties of a law enforcement  
24                officer,

- 1 (2) the physical-medical examination shall pertain to  
2 age, sight, hearing, agility and other conditions  
3 the requirements of which shall be established by  
4 the Board,
- 5 (3) the person shall be required to meet the  
6 conditions of this subsection prior to the  
7 beginning of actual employment but after an offer  
8 of employment has been tendered by a  
9 participating employer,
- 10 (4) the Board shall have authority to deny or revoke  
11 membership of any person submitting false  
12 information in such person's membership  
13 application, and
- 14 (5) the Board shall have final authority in  
15 determining eligibility for membership in the  
16 System, pursuant to the provisions of this  
17 subsection;

18 7. "Normal retirement date" means the date at which the member  
19 is eligible to receive the unreduced payments of the member's  
20 accrued retirement benefit. Such date shall be the first day of the  
21 month coinciding with or following the date the member:

- 22 a. completes twenty (20) years of vesting service, or  
23 b. attains sixty-two (62) years of age with ten (10)  
24 years of vesting service, or

c. attains sixty-two (62) years of age, if:

(1) the member has been transferred to this System from the Oklahoma Public Employees Retirement System on or after July 1, 1981, and

(2) the member would have been vested had the member continued to be a member of the Oklahoma Public Employees Retirement System.

With respect to distributions under the System made for calendar years beginning on or after January 1, 2005, the System shall apply the minimum distribution incidental benefit requirements, incidental benefit requirements, and minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, in accordance with the final regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, ~~which were issued in April 2002 and June 2004~~ including Treasury Regulations Sections 1.401(a)(9)-1 through 1.401(a)(9)-9; provided that for individuals who attain seventy and one-half (70 1/2) years of age after December 31, 2019, distributions shall be made when the individual attains seventy-two (72) years of age, pursuant to the provisions of the SECURE Act of 2019, Pub. L. 116-94, Sections 401(a)(9)(B)(iv)(I), 401(a)(9)(C)(i)(I) and 401(a)(9)(C)(ii)(I) of the Internal Revenue Code of 1986, as amended, notwithstanding any provision of the System to the contrary. With respect to distributions under the System made for calendar years beginning on or after January 1,

1 2001, through December 31, 2004, the System shall apply the minimum  
2 distribution requirements and incidental benefit requirements of  
3 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,  
4 in accordance with the regulations under Section 401(a)(9) of the  
5 Internal Revenue Code of 1986, as amended, which were proposed in  
6 January 2001, notwithstanding any provision of the System to the  
7 contrary.

8       Effective July 1, 1989, notwithstanding any other provision  
9 contained herein to the contrary, in no event shall commencement of  
10 distribution of the accrued retirement benefit of a member be  
11 delayed beyond April 1 of the calendar year following the later of:  
12 (1) the calendar year in which the member reaches seventy and one-  
13 half (70 1/2) years of age for a member who attains this age before  
14 January 1, 2020, or, for a member who attains this age after January  
15 1, 2020, the calendar year in which the member reaches seventy-two  
16 (72) years of age; or (2) the actual retirement date of the member.  
17 ~~The preceding sentence does not allow deferral of~~ A member electing  
18 to defer the commencement of retirement benefits pursuant to Section  
19 2-308.1 of this title may not defer the benefit commencement beyond  
20 the age of sixty-five (65).

21       Effective September 8, 2009, notwithstanding anything to the  
22 contrary of the System, the System, which as a governmental plan  
23 (within the meaning of Section 414(d) of the Internal Revenue Code  
24 of 1986, as amended), is treated as having complied with Section

1 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all  
2 years to which Section 401(a)(9) of the Internal Revenue Code of  
3 1986, as amended, applies to the System if the System complies with  
4 a reasonable and good faith interpretation of Section 401(a)(9) of  
5 the Internal Revenue Code of 1986, as amended.

6 A member who was required to join the System effective July 1,  
7 1980, because of the transfer of the employing agency from the  
8 Oklahoma Public Employees Retirement System to the System, and was  
9 not a member of the Oklahoma Public Employees Retirement System on  
10 the date of such transfer shall be allowed to receive credit for  
11 prior law enforcement service rendered to this state, if the member  
12 is not receiving or eligible to receive retirement credit or  
13 benefits for such service in any other public retirement system,  
14 upon payment to the System of the employee contribution the member  
15 would have been subject to had the member been a member of the  
16 System at the time, plus five percent (5%) interest. Service credit  
17 received pursuant to this paragraph shall be used in determining the  
18 member's retirement benefit, and shall be used in determining years  
19 of service for retirement or vesting purposes;

20 8. "Actual paid base salary" means the salary received by a  
21 member, excluding payment for any accumulated leave or uniform  
22 allowance. Salary shall include any amount of nonelective salary  
23 reduction under Section 414(h) of the Internal Revenue Code of 1986;



1        9. "Final average salary" means the average of the highest  
2 thirty (30) consecutive complete months of actual paid gross salary.  
3 Gross salary shall include any amount of elective salary reduction  
4 under Section 457 of the Internal Revenue Code of 1986, as amended,  
5 and any amount of nonelective salary reduction under Section 414(h)  
6 of the Internal Revenue Code of 1986, as amended. Effective July 1,  
7 1992, gross salary shall include any amount of elective salary  
8 reduction under Section 125 of the Internal Revenue Code of 1986, as  
9 amended. Effective July 1, 1998, gross salary shall include any  
10 amount of elective salary reduction not includable in the gross  
11 income of the member under Section 132(f)(4) of the Internal Revenue  
12 Code of 1986, as amended. Effective July 1, 1998, for purposes of  
13 determining a member's compensation, any contribution by the member  
14 to reduce his or her regular cash remuneration under Section  
15 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be  
16 treated as if the member did not make such an election. Only salary  
17 on which required contributions have been made may be used in  
18 computing the final average salary. Gross salary shall not include  
19 severance pay.

20        In addition to other applicable limitations, and notwithstanding  
21 any other provision to the contrary, for plan years beginning on or  
22 after July 1, 2002, the annual gross salary of each "Noneligible  
23 Member" taken into account under the System shall not exceed the  
24 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")

1 annual salary limit. The EGTRRA annual salary limit is Two Hundred  
2 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for  
3 increases in the cost of living in accordance with Section  
4 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The  
5 annual salary limit in effect for a calendar year applies to any  
6 period, not exceeding twelve (12) months, over which salary is  
7 determined ("determination period") beginning in such calendar year.  
8 If a determination period consists of fewer than twelve (12) months,  
9 the EGTRRA salary limit will be multiplied by a fraction, the  
10 numerator of which is the number of months in the determination  
11 period, and the denominator of which is twelve (12). For purposes  
12 of this section, a "Noneligible Member" is any member who first  
13 became a member during a plan year commencing on or after July 1,  
14 1996.

15 For plan years beginning on or after July 1, 2002, any reference  
16 in the System to the annual salary limit under Section 401(a)(17) of  
17 the Internal Revenue Code of 1986, as amended, shall mean the EGTRRA  
18 salary limit set forth in this provision.

19 Effective January 1, 2008, gross salary for a plan year shall  
20 also include gross salary, as described above, for services, but  
21 paid by the later of two and one-half (2 1/2) months after a  
22 member's severance from employment or the end of the calendar year  
23 that includes the date the member terminated employment, if it is a  
24 payment that, absent a severance from employment, would have been

1 paid to the member while the member continued in employment with the  
2 employer.

3 Effective January 1, 2008, any payments not described above  
4 shall not be considered gross salary if paid after severance from  
5 employment, even if they are paid by the later of two and one-half  
6 (2 1/2) months after the date of severance from employment or the  
7 end of the calendar year that includes the date of severance from  
8 employment, except payments to an individual who does not currently  
9 perform services for the employer by reason of qualified military  
10 service within the meaning of Section 414(u)(5) of the Internal  
11 Revenue Code of 1986, as amended, to the extent these payments do  
12 not exceed the amounts the individual would have received if the  
13 individual had continued to perform services for the employer rather  
14 than entering qualified military service.

15 Effective January 1, 2008, back pay, within the meaning of  
16 Section 1.415(c)-2(g)(8) of the Income Tax Regulations, shall be  
17 treated as gross salary for the limitation year to which the back  
18 pay relates to the extent the back pay represents wages and  
19 compensation that would otherwise be included in this definition.

20 Effective for years beginning after December 31, 2008, gross  
21 salary shall also include differential wage payments under Section  
22 414(u)(12) of the Internal Revenue Code of 1986, as amended;

23 10. "Credited service" means the period of service used to  
24 determine the amount of benefits payable to a member. Credited

1 service shall consist of the period during which the member  
2 participated in the System or the predecessor Plan as an active  
3 employee in an eligible membership classification, plus any service  
4 prior to the establishment of the predecessor Plan which was  
5 credited under the predecessor Plan and for law enforcement officers  
6 and criminalists of the Oklahoma State Bureau of Investigation and  
7 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
8 who became members of the System on July 1, 1980, any service  
9 credited under the Oklahoma Public Employees Retirement System as of  
10 June 30, 1980, and for members of the Communications and Lake Patrol  
11 Divisions of the Oklahoma Department of Public Safety, who became  
12 members of the System on July 1, 1981, any service credited under  
13 the predecessor Plan or the Oklahoma Public Employees Retirement  
14 System as of June 30, 1981, and for law enforcement officers of the  
15 Alcoholic Beverage Laws Enforcement Commission who became members of  
16 the System on July 1, 1982, any service credited under the Oklahoma  
17 Public Employees Retirement System as of June 30, 1982, and for park  
18 rangers of the Oklahoma Tourism and Recreation Department who became  
19 members of the System on July 1, 1985, any service credited under  
20 the Oklahoma Public Employees Retirement System as of June 30, 1985,  
21 and for inspectors of the Oklahoma State Board of Pharmacy who  
22 became members of the System on July 1, 1986, any service credited  
23 under the Oklahoma Public Employees Retirement System as of June 30,  
24 1986, for law enforcement officers of the Oklahoma Capitol Patrol

1 Division of the Department of Public Safety who became members of  
2 the System effective July 1, 1993, any service credited under the  
3 Oklahoma Public Employees Retirement System as of June 30, 1993, and  
4 for all commissioned officers in the Gunsmith/Ammunition Reloader  
5 Division of the Department of Public Safety who became members of  
6 the System effective July 1, 1994, any service credited under the  
7 Oklahoma Public Employees Retirement System as of June 30, 1994, and  
8 for the park managers or park supervisors of the Oklahoma Tourism  
9 and Recreation Department who were employed in such a position prior  
10 to July 1, 1985, and who elect to become members of the System  
11 effective September 1, 1996, any service transferred pursuant to  
12 subsection C of Section 2-309.6 of this title and any service  
13 purchased pursuant to subsection B of Section 2-307.2 of this title.  
14 Effective August 5, 1993, an authorized leave of absence shall  
15 include a period of absence pursuant to the Family and Medical Leave  
16 Act of 1993;

17 11. "Disability" means a physical or mental condition which, in  
18 the judgment of the Board, totally and presumably permanently  
19 prevents the member from engaging in the usual and customary duties  
20 of the occupation of the member and thereafter prevents the member  
21 from performing the duties of any occupation or service for which  
22 the member is qualified by reason of training, education or  
23 experience. A person is not under a disability when capable of  
24

1 performing a service to the employer, regardless of occupation,  
2 providing the salary of the employee is not diminished thereby;

3 12. "Limitation year" means the year used in applying the  
4 limitations of Section 415 of the Internal Revenue Code of 1986,  
5 which year shall be the calendar year;

6 13. "Line of duty" means any action which a member whose  
7 primary function is crime control or reduction or enforcement of the  
8 criminal law is obligated or authorized by rule, regulations,  
9 condition of employment or service, or law to perform, including  
10 those social, ceremonial, or athletic functions to which the member  
11 is assigned, or for which the member is compensated, by the agency  
12 the member serves;

13 14. "Personal injury" or "injury" means any traumatic injury as  
14 well as diseases which are caused by or result from such an injury,  
15 but not occupational diseases;

16 15. "Catastrophic nature" means consequences of an injury that  
17 permanently prevent an individual from performing any gainful work;

18 16. "Traumatic injury" means a wound or a condition of the body  
19 caused by external force, including injuries inflicted by bullets,  
20 explosives, sharp instruments, blunt objects or other physical  
21 blows, chemicals, electricity, climatic conditions, infectious  
22 diseases, radiation, and bacteria, but excluding stress and strain;  
23 and  
24

1        17. "Beneficiary" means the individual designated by the member  
2 on a beneficiary designation form supplied by the Oklahoma Law  
3 Enforcement Retirement System, or, if there is no designated  
4 beneficiary or if the designated beneficiary predeceases the member,  
5 the estate of the member. If the member's spouse is not designated  
6 as the sole primary beneficiary, the member's spouse must sign a  
7 consent.

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

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