

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 3807

By: Burns

COMMITTEE SUBSTITUTE

An Act relating to retirement; authorizing certain persons to become members in the Oklahoma Law Enforcement Retirement System; directing certain agencies to send notice; directing certain agencies and members to make contributions if certain conditions are met; providing conditions on which certain members shall be transferred to the System; amending 47 O.S. 2021, Section 2-300, as amended by Section 8, Chapter 151, O.S.L. 2023 (47 O.S. Supp. 2023, Section 2-300), which relates to definitions; modifying term; defining terms; providing for codification; and providing an effective date.

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 2-309.9 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Participating agencies may make an irrevocable written election to become participating employers in the Oklahoma Law Enforcement Retirement System for their employees who are law enforcement officers certified by the Council on Law Enforcement Education and Training (CLEET) and designated law enforcement

1 support staff who directly support CLEET certified law enforcement
2 officers and are employed by a participating agency as defined in
3 Section 2-300 of Title 47 of the Oklahoma Statutes. The
4 participating agencies shall send written notice of the election to
5 the Oklahoma Law Enforcement Retirement System.

6 B. Beginning the following month after the System receives the
7 written notice, the participating agencies and all active designated
8 law enforcement officers and allowable law enforcement support staff
9 who are hired on or after the date of the election shall participate
10 in and make contributions to the System as other participating
11 employers and members of the System.

12 C. Upon election by the Board, pursuant to subsection A of this
13 section, active designated law enforcement officers and allowable
14 law enforcement support staff employed prior to the date of the
15 election and who were participating in the Oklahoma Public Employees
16 Retirement System or Pathfinder, may, within three (3) months of the
17 date of the election, make an irrevocable written election to
18 participate in the Oklahoma Law Enforcement Retirement System and
19 file the written election with the Oklahoma Public Employees
20 Retirement System or Pathfinder and the Oklahoma Law Enforcement
21 Retirement System. Such designated law enforcement officers and
22 allowable law enforcement support staff who make the election to
23 transfer shall be transferred to the Oklahoma Law Enforcement
24 Retirement System subject to the following:

1 1. Upon the date of election of the law enforcement officers
2 and allowable law enforcement support staff, the law enforcement
3 officers and allowable law enforcement support staff shall cease
4 accruing benefits in the Oklahoma Public Employees Retirement System
5 or Pathfinder and shall commence accruing benefits in the Oklahoma
6 Law Enforcement Retirement System;

7 2. Prior to the beginning of the month following receipt of the
8 designated law enforcement officers and allowable law enforcement
9 support staff's election by Oklahoma Public Employees Retirement
10 System, the Oklahoma Public Employees Retirement System or
11 Pathfinder shall transfer to the Oklahoma Law Enforcement Retirement
12 System all employee contributions and employer contributions plus
13 accrued interest. The Oklahoma Public Employees Retirement System
14 or Pathfinder shall also send to the Oklahoma Law Enforcement
15 Retirement System the retirement records of the transferring law
16 enforcement officers and allowable law enforcement support staff;

17 3. To receive service credit accrued by such law enforcement
18 officers and allowable law enforcement support staff prior to the
19 election, or prior to the date as of which the person making the
20 election ceases to be a member of the Oklahoma Public Employees
21 Retirement System or Pathfinder, whichever date occurs last, the
22 member shall pay the difference between the amount transferred by
23 the Oklahoma Public Employees Retirement System or Pathfinder to the
24 Oklahoma Law Enforcement Retirement System in paragraph 2 of

1 subsection C of this section and the amount determined by the Board
2 of Trustees pursuant to Section 2-307.5 of Title 47 of the Oklahoma
3 Statutes. The designated law enforcement officers and allowable law
4 enforcement support staff shall elect to either pay any difference
5 to receive full credit for the years sought to be transferred or
6 receive prorated service credit for only the amount received from
7 the Oklahoma Public Employees Retirement System or Pathfinder
8 pursuant to subsection C of this section. Payments made by electing
9 designated law enforcement officers and allowable law enforcement
10 support staff pursuant to paragraph 3 of subsection C of this
11 section shall be made pursuant to subsection B of Section 2-307.5 of
12 Title 47 of the Oklahoma Statutes;

13 4. Service credit accrued by a designated law enforcement
14 officers and allowable law enforcement support staff while a member
15 of the Oklahoma Public Employees Retirement System or Pathfinder
16 shall be treated as credited service for such transferring
17 designated law enforcement officers and allowable law enforcement
18 support staff in the Oklahoma Public Employees Retirement System or
19 Pathfinder if the designated law enforcement officers and allowable
20 law enforcement support staff is not receiving or eligible to
21 receive service credit or benefits from said service in any other
22 public retirement system and the member has not received service
23 credit for the same years of service pursuant to Sections 2-307.1,
24 2-307.3, and 2-307.4 of Title 47 of the Oklahoma Statutes. Provided

1 further that only transferred credited service related to law
2 enforcement service or law enforcement support service with the
3 participating agencies shall be included in the determination of a
4 law enforcement officer's and allowable law enforcement support
5 staff's normal retirement date or vesting date; and

6 5. All service credit with the Oklahoma Public Employees
7 Retirement System or Pathfinder which is ineligible for transfer to
8 the Oklahoma Law Enforcement Retirement System shall be cancelled.

9 D. Upon election by the Board, pursuant to subsection A of this
10 section, active law enforcement officers and allowable law
11 enforcement support staff employed prior to the date of the election
12 and who were not participating in the Oklahoma Public Employees
13 Retirement System or Pathfinder, may, within three (3) months of the
14 date of the election, make an irrevocable written election to
15 participate in the Oklahoma Law Enforcement Retirement System and
16 file the written election with the Oklahoma Law Enforcement
17 Retirement System. Beginning the following month after the System
18 for such designated law enforcement officers and allowable law
19 enforcement support staff receives the law enforcement support
20 staff's written election, the participating agencies and the
21 electing designated law enforcement officers and allowable law
22 enforcement support staff shall participate in and make
23 contributions to the System as other participating employers and
24 members of the System.

SECTION 2. AMENDATORY 47 O.S. 2021, Section 2-300, as amended by Section 8, Chapter 151, O.S.L. 2023 (47 O.S. Supp. 2023, 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;
4. "Executive Director" means the managing officer of the System employed by the Board;
5. "Fund" means the Oklahoma Law Enforcement Retirement Fund;
6. a. "Member" means:
 - (1) all commissioned law enforcement officers of the Oklahoma Highway Patrol Division of the Department of Public Safety who have obtained certification from the Council on Law Enforcement Education and Training, and all cadets of a Patrol Academy of the Department of Public Safety,
 - (2) law enforcement officers and criminalists of the Oklahoma State Bureau of Investigation,
 - (3) law enforcement officers of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control

1 designated to perform duties in the investigation
2 and prevention of crime and the enforcement of
3 the criminal laws of this state,

4 (4) law enforcement officers of the Alcoholic
5 Beverage Laws Enforcement Commission designated
6 to perform duties in the investigation and
7 prevention of crime and the enforcement of the
8 criminal laws of this state,

9 (5) employees of the Communications Section of the
10 Oklahoma Highway Patrol Division, radio
11 technicians and tower technicians of the
12 Department of Public Safety, who are employed in
13 any such capacity as of June 30, 2008, and who
14 remain employed on or after July 1, 2008, until a
15 termination of service, or until a termination of
16 service with an election of a vested benefit from
17 the System, or until retirement. Effective July
18 1, 2008, a person employed for the first time as
19 an employee of the Department of Public Safety in
20 the Communications Division as an information
21 systems telecommunication technician of the
22 Department of Public Safety shall not be a member
23 of the System,

24

(6) park rangers of the Oklahoma Tourism and Recreation Department and any park manager or park supervisor of the Oklahoma Tourism and Recreation Department, who was employed in such a position prior to July 1, 1985, and who elects on or before September 1, 1996, to participate in the System, ~~and~~

(7) inspectors of the State Board of Pharmacy,

(8) law enforcement support staff of the participating agencies, and

(9) Council on Law Enforcement Education and Training (CLEET) certified law enforcement game wardens of the Oklahoma Department of Wildlife Conservation.

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

1 c. All persons who shall be offered a position of a
2 commissioned law enforcement officer as an employee of
3 one of the agencies described in subparagraph a of
4 this paragraph shall participate in the System upon
5 the person meeting the requisite post-offer-pre-
6 employment physical examination standards which shall
7 be subject to the following requirements:

8 (1) all such persons shall be of good moral
9 character, free from deformities, mental or
10 physical conditions, or disease and alcohol or
11 drug addiction which would prohibit the person
12 from performing the duties of a law enforcement
13 officer,

14 (2) the physical-medical examination shall pertain to
15 age, sight, hearing, agility and other conditions
16 the requirements of which shall be established by
17 the Board,

18 (3) the person shall be required to meet the
19 conditions of this subsection prior to the
20 beginning of actual employment but after an offer
21 of employment has been tendered by a
22 participating employer,

23 (4) the Board shall have authority to deny or revoke
24 membership of any person submitting false

1 information in such person's membership
2 application, and

- 3 (5) the Board shall have final authority in
4 determining eligibility for membership in the
5 System, pursuant to the provisions of this
6 subsection;

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

11 a. completes twenty (20) years of vesting service, or

12 b. attains sixty-two (62) years of age with ten (10)
13 years of vesting service, or

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

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

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

21 With respect to distributions under the System made for calendar
22 years beginning on or after January 1, 2005, the System shall apply
23 the minimum distribution incidental benefit requirements, incidental
24 benefit requirements, and minimum distribution requirements of

1 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
2 in accordance with the final regulations under Section 401(a)(9) of
3 the Internal Revenue Code of 1986, as amended, including Treasury
4 Regulations Sections 1.401(a)(9)-1 through 1.401(a)(9)-9; provided,
5 that for individuals who attain seventy and one-half (70 1/2) years
6 of age after December 31, 2019, but before January 1, 2023, such
7 distributions shall take into account that "age 70 1/2" was stricken
8 and "age 72" was inserted in Sections 401(a)(9)(B)(iv)(I),
9 401(a)(9)(C)(i)(I) and 401(a)(9)(C)(ii)(I) of the Internal Revenue
10 Code of 1986, as amended, and, provided further, that for
11 individuals who attain seventy-two (72) years of age after December
12 31, 2022, such distributions shall take into account that "age 72"
13 was stricken and "the applicable age", as defined in Section
14 401(a)(9)(C)(v) of the Internal Revenue Code of 1986, as amended,
15 was inserted in Section 401(a)(9)(B)(iv)(I), Section
16 401(a)(9)(C)(i)(I) and Section 401(a)(9)(C)(ii)(I) of the Internal
17 Revenue Code of 1986, as amended, in all cases notwithstanding any
18 provision of the System to the contrary. With respect to
19 distributions under the System made for calendar years beginning on
20 or after January 1, 2001, through December 31, 2004, the System
21 shall apply the minimum distribution requirements and incidental
22 benefit requirements of Section 401(a)(9) of the Internal Revenue
23 Code of 1986, as amended, in accordance with the regulations under
24 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,

1 which were proposed in January 2001, notwithstanding any provision
2 of the System to the contrary.

3 Effective July 1, 1989, notwithstanding any other provision
4 contained herein to the contrary, in no event shall commencement of
5 distribution of the accrued retirement benefit of a member be
6 delayed beyond April 1 of the calendar year following the later of:
7 (1) the calendar year in which the member reaches seventy and one-
8 half (70 1/2) years of age for a member who attains this age before
9 January 1, 2020, or, for a member who attains this age on or after
10 January 1, 2020, but before January 1, 2023, the calendar year in
11 which the member reaches seventy-two (72) years of age, or effective
12 for distributions required to be made after December 31, 2022, the
13 calendar year in which the member reaches seventy-three (73) years
14 of age for an individual who attains age seventy-two (72) after
15 December 31, 2022, or "the applicable age", as defined in Section
16 401(a)(9)(C)(v) of the Internal Revenue Code of 1986, as amended, if
17 later; or (2) the actual retirement date of the member. A member
18 electing to defer the commencement of retirement benefits pursuant
19 to Section 2-308.1 of this title may not defer the benefit
20 commencement beyond 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. "Participating agencies" means the Oklahoma Department of
21 Public Safety (DPS), Oklahoma State Bureau of Investigation (OSBI),
22 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
23 (OBNDCC), Oklahoma Alcoholic Beverage Laws Enforcement (ABLE)
24

1 Commission, Oklahoma Law Enforcement Retirement System (OLERS), and
2 Oklahoma Department of Wildlife Conservation (ODWC);

3 9. "Law enforcement support staff" means those employees of
4 participating agencies that directly support CLEET law enforcement
5 officers and include chaplains, analysts, communications, and
6 employees of Oklahoma Law Enforcement Retirement System (OLERS);

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

11 ~~9.~~ 11. "Final average salary" means the average of the highest
12 thirty (30) consecutive complete months of actual paid gross salary.
13 Gross salary shall include any amount of elective salary reduction
14 under Section 457 of the Internal Revenue Code of 1986, as amended,
15 and any amount of nonelective salary reduction under Section 414(h)
16 of the Internal Revenue Code of 1986, as amended. Effective July 1,
17 1992, gross salary shall include any amount of elective salary
18 reduction under Section 125 of the Internal Revenue Code of 1986, as
19 amended. Effective July 1, 1998, gross salary shall include any
20 amount of elective salary reduction not includable in the gross
21 income of the member under Section 132(f)(4) of the Internal Revenue
22 Code of 1986, as amended. Effective July 1, 1998, for purposes of
23 determining a member's compensation, any contribution by the member
24 to reduce his or her regular cash remuneration under Section

1 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be
2 treated as if the member did not make such an election. Only salary
3 on which required contributions have been made may be used in
4 computing the final average salary. Gross salary shall not include
5 severance pay.

6 In addition to other applicable limitations, and notwithstanding
7 any other provision to the contrary, for plan years beginning on or
8 after July 1, 2002, the annual gross salary of each "Noneligible
9 Member" taken into account under the System shall not exceed the
10 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")
11 annual salary limit. The EGTRRA annual salary limit is Two Hundred
12 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for
13 increases in the cost of living in accordance with Section
14 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The
15 annual salary limit in effect for a calendar year applies to any
16 period, not exceeding twelve (12) months, over which salary is
17 determined ("determination period") beginning in such calendar year.
18 If a determination period consists of fewer than twelve (12) months,
19 the EGTRRA salary limit will be multiplied by a fraction, the
20 numerator of which is the number of months in the determination
21 period, and the denominator of which is twelve (12). For purposes
22 of this section, a "Noneligible Member" is any member who first
23 became a member during a plan year commencing on or after July 1,
24 1996.

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

5 Effective January 1, 2008, gross salary for a plan year shall
6 also include gross salary, as described above, for services, but
7 paid by the later of two and one-half (2 1/2) months after a
8 member's severance from employment or the end of the calendar year
9 that includes the date the member terminated employment, if it is a
10 payment that, absent a severance from employment, would have been
11 paid to the member while the member continued in employment with the
12 employer.

13 Effective January 1, 2008, any payments not described above
14 shall not be considered gross salary if paid after severance from
15 employment, even if they are paid by the later of two and one-half
16 (2 1/2) months after the date of severance from employment or the
17 end of the calendar year that includes the date of severance from
18 employment, except payments to an individual who does not currently
19 perform services for the employer by reason of qualified military
20 service within the meaning of Section 414(u)(5) of the Internal
21 Revenue Code of 1986, as amended, to the extent these payments do
22 not exceed the amounts the individual would have received if the
23 individual had continued to perform services for the employer rather
24 than entering qualified military service.

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

6 Effective for years beginning after December 31, 2008, gross
7 salary shall also include differential wage payments under Section
8 414(u)(12) of the Internal Revenue Code of 1986, as amended;

9 ~~10.~~ 12. "Credited service" means the period of service used to
10 determine the amount of benefits payable to a member. Credited
11 service shall consist of the period during which the member
12 participated in the System or the predecessor Plan as an active
13 employee in an eligible membership classification, plus any service
14 prior to the establishment of the predecessor Plan which was
15 credited under the predecessor Plan and for law enforcement officers
16 and criminalists of the Oklahoma State Bureau of Investigation and
17 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
18 who became members of the System on July 1, 1980, any service
19 credited under the Oklahoma Public Employees Retirement System as of
20 June 30, 1980, and for members of the Communications and Lake Patrol
21 Divisions of the Oklahoma Department of Public Safety, who became
22 members of the System on July 1, 1981, any service credited under
23 the predecessor Plan or the Oklahoma Public Employees Retirement
24 System as of June 30, 1981, and for law enforcement officers of the

1 Alcoholic Beverage Laws Enforcement Commission who became members of
2 the System on July 1, 1982, any service credited under the Oklahoma
3 Public Employees Retirement System as of June 30, 1982, and for park
4 rangers of the Oklahoma Tourism and Recreation Department who became
5 members of the System on July 1, 1985, any service credited under
6 the Oklahoma Public Employees Retirement System as of June 30, 1985,
7 and for inspectors of the State Board of Pharmacy who became members
8 of the System on July 1, 1986, any service credited under the
9 Oklahoma Public Employees Retirement System as of June 30, 1986, for
10 law enforcement officers of the Oklahoma Capitol Patrol Division of
11 the Department of Public Safety who became members of the System
12 effective July 1, 1993, any service credited under the Oklahoma
13 Public Employees Retirement System as of June 30, 1993, and for all
14 commissioned officers in the Gunsmith/Ammunition Reloader Division
15 of the Department of Public Safety who became members of the System
16 effective July 1, 1994, any service credited under the Oklahoma
17 Public Employees Retirement System as of June 30, 1994, and for the
18 park managers or park supervisors of the Oklahoma Tourism and
19 Recreation Department who were employed in such a position prior to
20 July 1, 1985, and who elect to become members of the System
21 effective September 1, 1996, any service transferred pursuant to
22 subsection C of Section 2-309.6 of this title and any service
23 purchased pursuant to subsection B of Section 2-307.2 of this title.
24 Effective August 5, 1993, an authorized leave of absence shall

1 include a period of absence pursuant to the Family and Medical Leave
2 Act of 1993;

3 ~~11.~~ 13. "Disability" means a physical or mental condition
4 which, in the judgment of the Board, totally and presumably
5 permanently prevents the member from engaging in the usual and
6 customary duties of the occupation of the member and thereafter
7 prevents the member from performing the duties of any occupation or
8 service for which the member is qualified by reason of training,
9 education or experience. A person is not under a disability when
10 capable of performing a service to the employer, regardless of
11 occupation, providing the salary of the employee is not diminished
12 thereby;

13 ~~12.~~ 14. "Limitation year" means the year used in applying the
14 limitations of Section 415 of the Internal Revenue Code of 1986,
15 which year shall be the calendar year;

16 ~~13.~~ 15. "Line of duty" means any action which a member whose
17 primary function is crime control or reduction or enforcement of the
18 criminal law is obligated or authorized by rule, regulations,
19 condition of employment or service, or law to perform including
20 those social, ceremonial or athletic functions to which the member
21 is assigned, or for which the member is compensated, by the agency
22 the member serves;

1 ~~14.~~ 16. "Personal injury" or "injury" means any traumatic
2 injury as well as diseases which are caused by or result from such
3 an injury, but not occupational diseases;

4 ~~15.~~ 17. "Catastrophic nature" means consequences of an injury
5 that permanently prevent an individual from performing any gainful
6 work;

7 ~~16.~~ 18. "Traumatic injury" means a wound or a condition of the
8 body caused by external force including injuries inflicted by
9 bullets, explosives, sharp instruments, blunt objects or other
10 physical blows, chemicals, electricity, climatic conditions,
11 infectious diseases, radiation and bacteria, but excluding stress
12 and strain; and

13 ~~17.~~ 19. "Beneficiary" means the individual designated by the
14 member on a beneficiary designation form supplied by the Oklahoma
15 Law Enforcement Retirement System, or, if there is no designated
16 beneficiary or if the designated beneficiary predeceases the member,
17 the estate of the member. If the member's spouse is not designated
18 as the sole primary beneficiary, the member's spouse must sign a
19 consent.

20 SECTION 3. This act shall become effective November 1, 2024.

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22 59-2-10505 CMA 02/27/24
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