1 HOUSE OF REPRESENTATIVES - FLOOR VERSION 2 STATE OF OKLAHOMA 3 2nd Session of the 59th Legislature (2024) COMMITTEE SUBSTITUTE 4 FOR 5 HOUSE BILL NO. 3807 By: Burns 6 7 8 COMMITTEE SUBSTITUTE 9 An Act relating to retirement; authorizing certain persons to become members in the Oklahoma Law 10 Enforcement Retirement System; directing certain agencies to send notice; directing certain agencies 11 and members to make contributions if certain conditions are met; providing conditions on which 12 certain members shall be transferred to the System; amending 47 O.S. 2021, Section 2-300, as amended by 13 Section 8, Chapter 151, O.S.L. 2023 (47 O.S. Supp. 2023, Section 2-300), which relates to definitions; 14 modifying term; defining terms; providing for codification; and providing an effective date. 15 16 17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA: 18 SECTION 1. NEW LAW A new section of law to be codified 19 in the Oklahoma Statutes as Section 2-309.9 of Title 47, unless 20 there is created a duplication in numbering, reads as follows: 2.1 Participating agencies may make an irrevocable written 22 election to become participating employers in the Oklahoma Law 23 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

 support staff who directly support CLEET certified law enforcement

 officers and are employed by a participating agency as defined in

 Section 2-300 of Title 47 of the Oklahoma Statutes. The

 participating agencies shall send written notice of the election to

 the Oklahoma Law Enforcement Retirement System.
 - B. Beginning the following month after the System receives the written notice, the participating agencies and all active designated law enforcement officers and allowable law enforcement support staff who are hired on or after the date of the election shall participate in and make contributions to the System as other participating employers and members of the System.
 - C. Upon election by the Board, pursuant to subsection A of this section, active designated law enforcement officers and allowable law enforcement support staff employed prior to the date of the election and who were participating in the Oklahoma Public Employees Retirement System or Pathfinder, may, within three (3) months of the date of the election, make an irrevocable written election to participate in the Oklahoma Law Enforcement Retirement System and file the written election with the Oklahoma Public Employees Retirement System or Pathfinder and the Oklahoma Law Enforcement Retirement System. Such designated law enforcement officers and allowable law enforcement support staff who make the election to

transfer shall be transferred to the Oklahoma Law Enforcement Retirement System subject to the following:

- 1. Upon the date of election of the law enforcement officers and allowable law enforcement support staff, the law enforcement officers and allowable law enforcement support staff shall cease accruing benefits in the Oklahoma Public Employees Retirement System or Pathfinder and shall commence accruing benefits in the Oklahoma Law Enforcement Retirement System;
- 2. Prior to the beginning of the month following receipt of the designated law enforcement officers and allowable law enforcement support staff's election by Oklahoma Public Employees Retirement System, the Oklahoma Public Employees Retirement System or Pathfinder shall transfer to the Oklahoma Law Enforcement Retirement System all employee contributions and employer contributions plus accrued interest. The Oklahoma Public Employees Retirement System or Pathfinder shall also send to the Oklahoma Law Enforcement Retirement System the retirement records of the transferring law enforcement officers and allowable law enforcement support staff;
- 3. To receive service credit accrued by such law enforcement officers and allowable law enforcement support staff prior to the election, or prior to the date as of which the person making the election ceases to be a member of the Oklahoma Public Employees Retirement System or Pathfinder, whichever date occurs last, the member shall pay the difference between the amount transferred by

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

4. Service credit accrued by a designated law enforcement officers and allowable law enforcement support staff while a member of the Oklahoma Public Employees Retirement System or Pathfinder shall be treated as credited service for such transferring designated law enforcement officers and allowable law enforcement support staff in the Oklahoma Public Employees Retirement System or Pathfinder if the designated law enforcement officers and allowable law enforcement support staff is not receiving or eligible to receive service credit or benefits from said service in any other public retirement system and the member has not received service

- credit for the same years of service pursuant to Sections 2-307.1,

 2-307.3, and 2-307.4 of Title 47 of the Oklahoma Statutes. Provided

 further that only transferred credited service related to law

 enforcement service or law enforcement support service with the

 participating agencies shall be included in the determination of a

 law enforcement officer's and allowable law enforcement support

 staff's normal retirement date or vesting date; and
 - 5. All service credit with the Oklahoma Public Employees
 Retirement System or Pathfinder which is ineligible for transfer to
 the Oklahoma Law Enforcement Retirement System shall be cancelled.
 - D. Upon election by the Board, pursuant to subsection A of this section, active law enforcement officers and allowable law enforcement support staff employed prior to the date of the election and who were not participating in the Oklahoma Public Employees Retirement System or Pathfinder, may, within three (3) months of the date of the election, make an irrevocable written election to participate in the Oklahoma Law Enforcement Retirement System and file the written election with the Oklahoma Law Enforcement Retirement System. Beginning the following month after the System for such designated law enforcement officers and allowable law enforcement support staff receives the law enforcement support staff's written election, the participating agencies and the electing designated law enforcement officers and allowable law enforcement support staff shall participate in and make

1 contributions to the System as other participating employers and 2 members of the System. 3 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, 4 5 Section 2-300), is amended to read as follows: 6 Section 2-300. As used in Section 2-300 et seq. of this title: 7 "System" means the Oklahoma Law Enforcement Retirement 8 System; 9 2. "Act" means Section 2-300 et seq. of this title; 10 "Board" means the Oklahoma Law Enforcement Retirement Board 3. 11 of the System; 12 "Executive Director" means the managing officer of the 13 System employed by the Board; 14 5. "Fund" means the Oklahoma Law Enforcement Retirement Fund; 15 "Member" means: 6. 16 all commissioned law enforcement officers of the 17 Oklahoma Highway Patrol Division of the 18 Department of Public Safety who have obtained 19 certification from the Council on Law Enforcement 20 Education and Training, and all cadets of a 2.1 Patrol Academy of the Department of Public 2.2 Safety,

law enforcement officers and criminalists of the

Oklahoma State Bureau of Investigation,

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- (3) law enforcement officers of the Oklahoma State

 Bureau of Narcotics and Dangerous Drugs Control

 designated to perform duties in the investigation

 and prevention of crime and the enforcement of

 the criminal laws of this state,
- (4) law enforcement officers of the Alcoholic

 Beverage Laws Enforcement Commission designated
 to perform duties in the investigation and
 prevention of crime and the enforcement of the
 criminal laws of this state,
- (5) employees of the Communications Section of the
 Oklahoma Highway Patrol Division, radio
 technicians and tower technicians of the
 Department of Public Safety, who are employed in
 any such capacity as of June 30, 2008, and who
 remain employed on or after July 1, 2008, until a
 termination of service, or until a termination of
 service with an election of a vested benefit from
 the System, or until retirement. Effective July
 1, 2008, a person employed for the first time as
 an employee of the Department of Public Safety in
 the Communications Division as an information
 systems telecommunication technician of the

- Department of Public Safety shall not be a member of the System,
- (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

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governmental agency, or any court of competent jurisdiction.

- c. All persons who shall be offered a position of a commissioned law enforcement officer as an employee of one of the agencies described in subparagraph a of this paragraph shall participate in the System upon the person meeting the requisite post-offer-pre-employment physical examination standards which shall be subject to the following requirements:
 - (1) all such persons shall be of good moral character, free from deformities, mental or physical conditions, or disease and alcohol or drug addiction which would prohibit the person from performing the duties of a law enforcement officer,
 - (2) the physical-medical examination shall pertain to age, sight, hearing, agility and other conditions the requirements of which shall be established by the Board,
 - (3) the person shall be required to meet the conditions of this subsection prior to the beginning of actual employment but after an offer of employment has been tendered by a participating employer,

1	(4)	the Board shall have authority to deny or revoke
2		membership of any person submitting false
3		information in such person's membership
4		application, and
5	(5)	the Board shall have final authority in
6		determining eligibility for membership in the
7		System, pursuant to the provisions of this
8		subsection;
9	7. "Normal re	tirement date" means the date at which the member
10	is eligible to rec	eive the unreduced payments of the member's
11	accrued retirement	benefit. Such date shall be the first day of the
12	month coinciding w	ith or following the date the member:
13	a. comp	letes twenty (20) years of vesting service, or
14	b. atta	ins sixty-two (62) years of age with ten (10)
15	year	s of vesting service, or
16	c. atta	ins sixty-two (62) years of age, if:
17	(1)	the member has been transferred to this System
18		from the Oklahoma Public Employees Retirement
19		System on or after July 1, 1981, and
20	(2)	the member would have been vested had the member
21		continued to be a member of the Oklahoma Public
22		Employees Retirement System.
23	With respect to	o distributions under the System made for calendar
24	years beginning on	or after January 1, 2005, the System shall apply

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

Code of 1986, as amended, in accordance with the regulations under

Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,

which were proposed in January 2001, notwithstanding any provision

of the System to the contrary.

Effective July 1, 1989, notwithstanding any other provision contained herein to the contrary, in no event shall commencement of distribution of the accrued retirement benefit of a member be delayed beyond April 1 of the calendar year following the later of: (1) the calendar year in which the member reaches seventy and onehalf (70 1/2) years of age for a member who attains this age before January 1, 2020, or, for a member who attains this age on or after January 1, 2020, but before January 1, 2023, the calendar year in which the member reaches seventy-two (72) years of age, or effective for distributions required to be made after December 31, 2022, the calendar year in which the member reaches seventy-three (73) years of age for an individual who attains age seventy-two (72) after December 31, 2022, or "the applicable age", as defined in Section 401(a)(9)(C)(v) of the Internal Revenue Code of 1986, as amended, if later; or (2) the actual retirement date of the member. A member electing to defer the commencement of retirement benefits pursuant to Section 2-308.1 of this title may not defer the benefit commencement beyond the age of sixty-five (65).

Effective September 8, 2009, notwithstanding anything to the contrary of the System, the System, which as a governmental plan

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(within the meaning of Section 414(d) of the Internal Revenue Code of 1986, as amended), is treated as having complied with Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all years to which Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, applies to the System if the System complies with a reasonable and good faith interpretation of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.

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

8. "Participating agencies" means the Oklahoma Department of
Public Safety (DPS), Oklahoma State Bureau of Investigation (OSBI),
Oklahoma State Bureau of Narcotics and Dangerous Drugs Control

1 (OBNDDC), Oklahoma Alcoholic Beverage Laws Enforcement (ABLE)
2 Commission, Oklahoma Law Enforcement Retirement System (OLERS), and
3 Oklahoma Department of Wildlife Conservation (ODWC);

- 9. "Law enforcement support staff" means those employees of participating agencies that directly support CLEET law enforcement officers and include chaplains, analysts, communications, and employees of Oklahoma Law Enforcement Retirement System (OLERS);
- 10. "Actual paid base salary" means the salary received by a member, excluding payment for any accumulated leave or uniform allowance. Salary shall include any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986;
 9. 11. "Final average salary" means the average of the highest thirty (30) consecutive complete months of actual paid gross salary.

Gross salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986, as amended, and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986, as amended. Effective July 1, 1992, gross salary shall include any amount of elective salary reduction under Section 125 of the Internal Revenue Code of 1986, as amended. Effective July 1, 1998, gross salary shall include any amount of elective salary reduction not includable in the gross income of the member under Section 132(f)(4) of the Internal Revenue Code of 1986, as amended. Effective July 1, 1998, for purposes of

determining a member's compensation, any contribution by the member

to reduce his or her regular cash remuneration under Section 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be treated as if the member did not make such an election. Only salary on which required contributions have been made may be used in computing the final average salary. Gross salary shall not include severance pay.

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

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BOLD FACE denotes Committee Amendments.

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became a member during a plan year commencing on or after July 1, 1996.

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

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

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

individual had continued to perform services for the employer rather than entering qualified military service.

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

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

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

the predecessor Plan or the Oklahoma Public Employees Retirement System as of June 30, 1981, and for law enforcement officers of the Alcoholic Beverage Laws Enforcement Commission who became members of the System on July 1, 1982, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1982, and for park rangers of the Oklahoma Tourism and Recreation Department who became members of the System on July 1, 1985, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1985, and for inspectors of the State Board of Pharmacy who became members of the System on July 1, 1986, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1986, for law enforcement officers of the Oklahoma Capitol Patrol Division of the Department of Public Safety who became members of the System effective July 1, 1993, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1993, and for all commissioned officers in the Gunsmith/Ammunition Reloader Division of the Department of Public Safety who became members of the System effective July 1, 1994, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1994, and for the park managers or park supervisors of the Oklahoma Tourism and Recreation Department who were employed in such a position prior to July 1, 1985, and who elect to become members of the System effective September 1, 1996, any service transferred pursuant to subsection C of Section 2-309.6 of this title and any service

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1 | purchased pursuant to subsection B of Section 2-307.2 of this title.

2 | Effective August 5, 1993, an authorized leave of absence shall

3 | include a period of absence pursuant to the Family and Medical Leave

4 Act of 1993;

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

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

13. 15. "Line of duty" means any action which a member whose primary function is crime control or reduction or enforcement of the criminal law is obligated or authorized by rule, regulations, condition of employment or service, or law to perform including those social, ceremonial or athletic functions to which the member is assigned, or for which the member is compensated, by the agency 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	$\frac{17.}{19.}$ "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.
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SECTION 3. This act shall become effective November 1, 2024.

COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND PENSIONS, dated 02/27/2024 - DO PASS, As Amended.

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