

## STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 10

By: Bullard

AS INTRODUCED

An Act relating to Oklahoma Law Enforcement Retirement System; amending 47 O.S. 2021, Section 2-305, as amended by Section 2, Chapter 255, O.S.L. 2022 (47 O.S. Supp. 2022, Section 2-305), which relates to retirement and retirement pay; authorizing rehire under certain circumstances; providing for members to continue receiving benefits during rehiring period; and prohibiting accrual of further credited service.

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

SECTION 1. AMENDATORY 47 O.S. 2021, Section 2-305, as amended by Section 2, Chapter 255, O.S.L. 2022 (47 O.S. Supp. 2022, Section 2-305), is amended to read as follows:

Section 2-305. A. Except as otherwise provided in this title, at any time after attaining normal retirement date, any member of the Oklahoma Law Enforcement Retirement System upon application for unreduced retirement benefits made and approved, may retire, and, during the remainder of the member's lifetime, receive annual retirement pay, payable in equal monthly payments, equal to two and one-half percent (2 1/2%) of the final average salary times years of credited service. If such retired member is reemployed by a state

1 agency in a position which is not covered by the System, such  
2 retired member shall continue to receive in-service distributions  
3 from the System.

4 1. Prior to September 19, 2002, if such retired member was  
5 reemployed by a state agency in a position which is covered by the  
6 System, such member shall continue to receive in-service  
7 distributions from the System and shall not accrue any further  
8 credited service. If such a member is reemployed by a state agency  
9 in a position which is covered by the System on or after September  
10 19, 2002, but prior to the effective date of this act, such member's  
11 monthly retirement payments shall be suspended until such member  
12 retires and is not reemployed by a state agency in a position which  
13 is covered by the System.

14 2. Beginning on the effective date of this act, if a retired  
15 member has received in-service distributions for no less than one  
16 (1) year and is reemployed by a state agency in a position which is  
17 covered by the System, such member shall continue to receive in-  
18 service distributions from the system while being employed in that  
19 position. Such a member shall not be eligible to accrue any further  
20 credited service during the reemployment period.

21 B. Beginning July 1, 1994, members who retired or were eligible  
22 to retire prior to July 1, 1980, or their surviving spouses shall  
23 receive annual retirement pay, payable in equal monthly payments,  
24 equal to the greater of their current retirement pay, or two and

1 one-half percent (2 1/2%) of the actual paid gross salary being  
2 currently paid to a highway patrol officer, at the time each such  
3 monthly retirement payment is made, multiplied by the retired  
4 member's years of credited service.

5 C. Except as otherwise provided by this subsection, members of  
6 the System whose salary is set by statute who have retired after  
7 completion of the mandatory twenty (20) years of service, and those  
8 members with statutory salaries who retire after reaching the  
9 mandatory twenty-year retirement shall receive an annual retirement  
10 pay, payable in equal monthly installments, based upon the greater  
11 of either:

12 1. The top base salary currently paid to the highest  
13 nonsupervisory position in the participating agency at the time each  
14 such monthly retirement payment is made, limited to the annual  
15 salary limit of the Economic Growth and Tax Relief Reconciliation  
16 Act of 2001, as described in paragraph 9 of Section 2-300 of this  
17 title, multiplied by two and one-half percent (2 1/2%) multiplied by  
18 the number of years of credited service and fraction thereof for the  
19 following positions:

- 20 a. Oklahoma Highway Patrolman,
  - 21 b. Communications Dispatcher,
  - 22 c. Capitol Patrolman,
  - 23 d. Lake Patrolman, and
- 24  
25

1 e. Oklahoma State Bureau of Investigation - Special Agent  
2 or Criminalist; or

3 2. The member's final average salary as set forth in paragraph  
4 9 of Section 2-300 of this title, multiplied by two and one-half  
5 percent (2 1/2%), and multiplied by the number of years of credited  
6 service and fraction thereof.

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

10 The provisions of paragraph 1 of this subsection shall not be  
11 applicable to any member whose first participating service with the  
12 System occurs on or after November 1, 2012, except for those members  
13 who died in the performance of their duties pursuant to Section 2-  
14 306 of this title.

15 D. Other members of the System whose retirement benefit is not  
16 otherwise prescribed by this section who have retired after  
17 completion of the mandatory twenty (20) years of service, and those  
18 members who retire after reaching the mandatory twenty-year  
19 retirement shall receive an annual retirement pay, payable in equal  
20 monthly payments, based upon the greater of either:

21 1. The actual average salary currently paid to the highest  
22 nonsupervisory position in the participating agency at the time each  
23 such monthly payment is made, limited to the annual salary limit of  
24 the Economic Growth and Tax Relief Reconciliation Act of 2001, as

described in paragraph 9 of Section 2-300 of this title, multiplied by two and one-half percent (2 1/2%), multiplied by the number of years of credited service and fraction thereof for the following positions:

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

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

No member of the System retired prior to July 1, 2002, shall receive a benefit less than the amount the member is receiving as of June 30, 2002. The participating employer must certify to the System in writing the actual average gross salary currently paid to the highest nonsupervisory position. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this section.

1 The provisions of paragraph 1 of this subsection shall not be  
2 applicable to any member whose first participating service with the  
3 System occurs on or after May 24, 2013, except for those members who  
4 died in the performance of their duties pursuant to Section 2-306 of  
5 this title.

6 E. A member who meets the definition of disability as defined  
7 in paragraph 11 of Section 2-300 of this title by direct reason of  
8 the performance of the member's duties as an officer shall receive a  
9 monthly benefit equal to:

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

11 2. Multiplied by:

12 a. twenty (20) years of credited service, if the member  
13 had performed less than twenty (20) years of credited  
14 service, notwithstanding the actual number of years of  
15 credited service performed by the member prior to the  
16 date of disability, or

17 b. the actual number of years of credited service and  
18 fraction thereof performed by the member prior to the  
19 date of disability, if the member had performed twenty  
20 (20) or more years of credited service;

21 3. Multiplied by the greater of subparagraph a of this  
22 paragraph and division 1 of subparagraph b of this paragraph or  
23 division 2 of subparagraph b of this paragraph, as applicable:  
24

- 1           a.    the final average salary of the member, as set forth  
2                in paragraph 9 of Section 2-300 of this title, and  
3           b.    (1)  the top base salary currently paid to the highest  
4                nonsupervisory position in the participating  
5                agency of the member at the time each monthly  
6                payment is made, limited to the annual salary  
7                limit of the Economic Growth and Tax Relief  
8                Reconciliation Act of 2001 described in paragraph  
9                9 of Section 2-300 of this title, for the  
10              following positions:  
11               (a)  Oklahoma Highway Patrolman,  
12               (b)  Communications Dispatcher,  
13               (c)  Capitol Patrolman,  
14               (d)  Lake Patrolman, and  
15               (e)  Oklahoma State Bureau of Investigation -  
16               Special Agent or Criminalist,

17        Provided, the participating employer must certify to the System  
18        in writing the top base salary currently paid to the highest  
19        nonsupervisory position for division (1) of subparagraph b of this  
20        paragraph, or

- 21               (2)  the actual average salary currently paid to the  
22                highest nonsupervisory position in the  
23                participating agency of the member at the time  
24                each monthly payment is made, limited to the

1 annual salary limit of the Economic Growth and  
2 Tax Relief Reconciliation Act of 2001, described  
3 in paragraph 9 of Section 2-300 of this title,  
4 for the following positions:

- 5 (a) Alcoholic Beverage Laws Enforcement (ABLE)  
6 Commission - ABLE Commission Agent III,  
7 (b) Oklahoma State Bureau of Narcotics and  
8 Dangerous Drugs Control - Narcotics Agent  
9 III,  
10 (c) Oklahoma Tourism and Recreation Department -  
11 Park Ranger II,  
12 (d) ~~State~~ Board of Pharmacy - Pharmacy  
13 Inspector,  
14 (e) University of Oklahoma - Police Officer, and  
15 (f) Oklahoma State University - Police Officer,

16 Provided, the participating employer must certify to the System  
17 in writing the actual average gross salary currently paid to the  
18 highest nonsupervisory position for division (2) of subparagraph b  
19 of this paragraph;

20 4. No member of the System receiving benefits prescribed by  
21 this subsection who retired prior to July 1, 2002, shall receive a  
22 benefit of less than the amount the member was receiving as of June  
23 30, 2002;  
24



1        5. The Board of Trustees shall promulgate rules as necessary to  
2 implement the provisions of this subsection; and

3        6. If such member participates in the Oklahoma Law Enforcement  
4 Deferred Option Plan pursuant to Section 2-305.2 of this title, then  
5 such member's disability pension provided pursuant to this  
6 subsection shall be reduced to account for such member's  
7 participation in the Oklahoma Law Enforcement Deferred Option Plan.

8        F. A member who meets the definition of disability as defined  
9 in paragraph 11 of Section 2-300 of this title and whose disability  
10 is by means of personal and traumatic injury of a catastrophic  
11 nature and in the line of duty, shall receive a monthly benefit  
12 equal to:

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

14        2. Multiplied by:

15            a. twenty (20) years of service, regardless of the actual  
16                number of years of credited service performed by the  
17                member prior to the date of disability, if the member  
18                had performed less than twenty (20) years of service,  
19                or

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

23        3. Multiplied by a final average salary equal to:  
24  
25

- 1           a.    the salary which the member would have received  
2                   pursuant to statutory salary schedules in effect upon  
3                   the date of the disability for twenty (20) years of  
4                   service prior to disability. The final average salary  
5                   for a member who performed less than twenty (20) years  
6                   of service prior to disability shall be computed  
7                   assuming that the member was paid the highest salary  
8                   allowable pursuant to the law in effect at the time of  
9                   the member's disability based upon twenty (20) years  
10                  of service and with an assumption that the member was  
11                  eligible for any and all increases in pay based upon  
12                  rank during the entire period. If the salary of a  
13                  member is not prescribed by a specific salary schedule  
14                  upon the date of the member's disability, the final  
15                  average salary for the member shall be computed by the  
16                  member's actual final average salary or the highest  
17                  median salary amount for a member whose salary was  
18                  prescribed by a specific salary schedule upon the date  
19                  of the member's disability, whichever final average  
20                  salary amount would be greater, or  
21           b.    the actual final average salary of the member if the  
22                   member had performed twenty (20) or more years of  
23                   service prior to disability.

1 If such member participates in the Oklahoma Law Enforcement  
2 Deferred Option Plan pursuant to Section 2-305.2 of this title, such  
3 member's disability pension provided pursuant to this subsection  
4 shall be adjusted as provided in Section 2-305.2 of this title to  
5 account for such member's participation in the Oklahoma Law  
6 Enforcement Deferred Option Plan.

7 G. A member who meets the definition of disability as defined  
8 in Section 2-300 of this title and whose disability occurred prior  
9 to the member's normal retirement date but after completing three  
10 (3) years of vesting service and not by reason of the performance of  
11 the member's duties or as a result of the member's willful  
12 negligence shall receive a monthly benefit equal to two and one-half  
13 percent (2 1/2%) of final average salary multiplied by the number of  
14 years of the member's credited service.

15 H. Payment of a disability pension shall commence as of the  
16 first day of the month coinciding or next following the date of  
17 retirement and shall continue as long as the member meets the  
18 definition of total and permanent disability provided in this  
19 section.

20 I. For the purpose of determining the member's disability under  
21 subsection E, F or G of this section, the member shall be required  
22 by the Board to be examined by a minimum of two recognized  
23 physicians selected by the Board to determine the extent of the  
24 member's injury or illness. The examining physicians shall furnish

1 the Board a detailed written report of the injury or illness of the  
2 examined member establishing the extent of disability and the  
3 possibilities of the disabled member being returned to his or her  
4 regular duties or an alternate occupation or service covered by the  
5 System after a normal recuperation period. The Board shall require  
6 all retired disabled members who have not attained their normal  
7 retirement date to submit to a physical examination once each year  
8 for a minimum of three (3) years following retirement. The Board  
9 shall select a minimum of two physicians to examine the retired  
10 members and pay for their services from the ~~fund~~ Oklahoma Law  
11 Enforcement Retirement Fund. Any retired disabled member found no  
12 longer disabled by the examining physicians to perform the  
13 occupation of the member or an alternate occupation or service  
14 covered by the System shall be required to return to duty and  
15 complete twenty (20) years of service as provided in subsection A of  
16 this section, or forfeit all his or her rights and claims under  
17 Section 2-300 et seq. of this title.

18 J. The disability benefit under this section shall be for the  
19 lifetime of the member unless such member is found no longer  
20 disabled pursuant to subsection I of this section. Such member  
21 shall not be entitled to the retirement benefit pursuant to  
22 subsection A of this section unless such member returns to active  
23 duty and is eligible for a retirement benefit as provided in  
24 subsection A of this section.

1 K. At the postoffer, preemployment physical examination  
2 required under paragraph 6 of Section 2-300 of this title, the  
3 physician selected by the Board shall determine the extent to which  
4 a new member is disabled. If a member is determined to be partially  
5 disabled, the physician shall assign a percentage of disability to  
6 such partial disability. If such member then becomes entitled to a  
7 disability benefit under either subsection E or subsection G of this  
8 section, the benefit payable shall be reduced by the percentage  
9 which such member was determined to be disabled at the postoffer,  
10 preemployment physical unless the Board makes a determination that  
11 the initially determined percentage of disability at the  
12 preemployment physical examination is unrelated to the reason for  
13 the disability currently sought pursuant to subsection E or  
14 subsection G of this section. Upon employment, the member shall  
15 disclose to the Board any disability payments received from any  
16 source. The amount of disability to be paid to any member cannot  
17 exceed one hundred percent (100%) disability from all sources. The  
18 provisions of this subsection shall apply only to members whose  
19 effective date of membership is on or after July 1, 2000.

20 L. In addition to the pension provided for under subsection F  
21 of this section, if the member has one or more children under the  
22 age of eighteen (18) years or under the age of twenty-two (22) years  
23 if the child is enrolled full time in and is regularly attending a  
24 public or private school or any institution of higher education,

1 Four Hundred Dollars (\$400.00) a month shall be paid from the Fund  
2 for the support of each surviving child to the member or person  
3 having the care and custody of such children until each child  
4 reaches the age of eighteen (18) years or reaches the age of twenty-  
5 two (22) years if the child is enrolled full time in and is  
6 regularly attending a public or private school or any institution of  
7 higher education.

8 M. Notwithstanding any other provisions in Section 2-300  
9 through 2-315 of this title, in order to be eligible to receive  
10 disability benefits, a member who meets the definition of disability  
11 as defined in paragraph 11 of Section 2-300 of this title shall file  
12 the member's completed application for disability benefits with the  
13 System before such member's date of termination from service and  
14 provide such additional information that the System's rules require  
15 within six (6) months of the System's receipt of such application.  
16 If the member's completed application for disability benefits is not  
17 filed with the System before the member's date of termination from  
18 service or such additional information as is required under the  
19 System's rules is not provided within six (6) months of the System's  
20 receipt of such application, such member shall be eligible only for  
21 such other benefits as are available to members of the System and  
22 shall not be eligible to receive any disability benefits. For good  
23 cause shown, the Board of Trustees may waive the requirement that  
24 the disability application be filed before the member's date of

1 termination from service. In no event shall a member be eligible to  
2 receive any disability benefit if the member's completed application  
3 is filed more than six (6) months after the member's date of  
4 termination from service.

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

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