

An Act

ENROLLED HOUSE
BILL NO. 1027

By: Kelley of the House

and

Alvord of the Senate

An Act relating to retirement; amending 47 O.S. 2021, Sections 2-300, as last amended by Section 1, Chapter 361, O.S.L. 2024, 2-304, and 2-307.2 (47 O.S. Supp. 2024, Section 2-300), which relate to the Oklahoma Law Enforcement Retirement System; modifying definition; updating references; deleting list of specified state agencies that contribute to certain fund; updating purchase price calculation for service credit related to certain leaves of absence; and declaring an emergency.

SUBJECT: Retirement

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

SECTION 1. AMENDATORY 47 O.S. 2021, Section 2-300, as last amended by Section 1, Chapter 361, O.S.L. 2024 (47 O.S. Supp. 2024, 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. "Participating employer" means any Oklahoma entity with one or more employees who are members of the System;

7. 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 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,
 - (7) inspectors of the State Board of Pharmacy, ~~and~~
 - (8) active commissioned or CLEET-certified agents hired by the Office of the Attorney General or the Military Department of the State of Oklahoma on or after ~~the effective date of this act~~ July 1, 2024,
 - (9) police officers who are CLEET-certified and employed by the University of Oklahoma or Oklahoma State University and who participate in the System, pursuant to Section 2-314 of this title, and
 - (10) lake patrolmen or dispatchers of the Grand River Dam Authority who participate in the System, pursuant to Section 2-315 of this title.
- 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.
- c. All persons offered a position described in subparagraph a of this paragraph shall participate in the System only upon meeting the requisite post-offer-pre-employment 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,
- (4) the Board shall have authority to deny or revoke membership of any person submitting false information in such person's membership application, and
- (5) the Board shall have final authority in determining eligibility for membership in the System, pursuant to the provisions of this subsection;

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

- a. completes twenty (20) years of vesting service, or
- b. attains sixty-two (62) years of age with ten (10) 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, 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, but before January 1, 2023, such distributions shall take into account that "age 70 1/2" was stricken and "age 72" was inserted in 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, and, provided further, that for individuals who attain seventy-two (72) years of age after December 31, 2022, such distributions shall take into account that "age 72" was stricken and "the applicable age", as defined in Section 401(a)(9)(C)(v) of the Internal Revenue Code of 1986, as amended, was inserted in Section 401(a)(9)(B)(iv)(I) of the Internal Revenue Code of 1986, as amended (applicable to calendar year 2023), Section 401(a)(9)(C)(i)(I) and Section 401(a)(9)(C)(ii)(I) of the Internal Revenue Code of 1986, as amended, and that the further revision of Section 401(a)(9)(B)(iv) of the Internal Revenue Code of 1986, as amended, effective for calendar years after 2023 with respect to certain distributions shall be taken into account, in all cases 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, 2001, through December 31, 2004, the System shall apply the minimum distribution requirements and incidental 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 one-half (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 (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;

9. "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;

10. "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. The 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 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;

11. "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 purchased pursuant to subsection B of Section 2-307.2 of this title. Effective August 5, 1993, an authorized leave of absence shall include a period of absence pursuant to the Family and Medical Leave Act of 1993;

12. "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;

13. "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;

14. "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;

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

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

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

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

SECTION 2. AMENDATORY 47 O.S. 2021, Section 2-304, is amended to read as follows:

Section 2-304. A. ~~The Department of Public Safety, the Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Control Board, the Oklahoma Tourism and Recreation Department and the State Board of Pharmacy shall make contributions to the fund as follows:~~

~~The Department of Public Safety, Oklahoma State Bureau of Investigation, Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Control Board, the Oklahoma Tourism and Recreation Department and the State Board of Pharmacy~~ Participating employers shall contribute to the fund an amount equal to eleven percent (11%) of the actual paid base salary of each member.

B. Each member of the System shall make contributions to the fund in an amount equal to eight percent (8%) of the actual paid base salary of the member.

Member contributions shall be deducted by each participating employer for such benefits as the Board is by law authorized to administer and shall be remitted monthly, or as the Board may otherwise provide, for deposit in the fund.

C. Each employer shall pick up under the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986 and pay the contribution which the member is required by law to make to the System for all compensation earned after December 31, 1989. Although the contributions so picked up are designated as member contributions, such contributions shall be treated as contributions being paid by the employer in lieu of contributions by the member in determining tax treatment under the Internal Revenue Code of 1986 and such picked up contributions shall not be includable in the gross income of the member until such amounts are distributed or made available to the member or the beneficiary of the member. The member, by the terms of this System, shall not have any option to choose to receive the contributions so picked up directly and the picked up contributions must be paid by the employer to the System.

Member contributions which are picked up shall be treated in the same manner and to the same extent as member contributions made prior to the date on which member contributions were picked up by the participating employer. Member contributions so picked up shall be included in gross salary for purposes of determining benefits and contributions under the System.

The employer shall pay the member contributions from the same source of funds used in paying salary to the member, by effecting an equal cash reduction in gross salary of the member.

SECTION 3. AMENDATORY 47 O.S. 2021, Section 2-307.2, is amended to read as follows:

Section 2-307.2. A. The total service credit of a member who retires, elects a Deferred Option Plan or terminates employment and elects a vested benefit shall include not to exceed one hundred thirty (130) days of unused sick leave accumulated while a member of the System. Effective July 1, 2008, a member who retires, elects a Deferred Option Plan or terminates employment and elects a vested benefit shall include not to exceed two hundred forty (240) days of

unused sick leave accumulated while a member of the System. Such credit shall be added in terms of whole months. Twenty (20) days of unused sick leave shall equal one (1) month for purposes of service credit. If unused sick leave entitles a member to an additional year or fraction thereof of service credit, the member's employer shall reimburse the System for the cost of funding the additional reserve by paying the amount determined by the Board pursuant to Section 25 of this act. Each employer shall provide the System with adequate and timely information necessary to determine additional benefits and its cost under this section. This section shall apply to members retiring or vesting on or after July 1, 1985, and shall not be retroactive. The amount of accrued sick leave available for determination of a member's monthly benefit for purposes of the deferred option election shall be limited to the accrued sick leave available as of the effective date of the deferred option election, but not to exceed two hundred forty (240) days. The member's monthly benefit determined as of the effective date of the deferred option election shall not be adjusted for additional accrued sick leave earned by the member after the deferred option election.

B. Whenever any member is unable to perform the member's duties because of sickness or temporary disability caused or sustained while in the discharge of the member's duty as a member, is receiving a temporary total disability benefit under Section 1 et seq. of Title 85A of the Oklahoma Statutes, and does not purchase service credit as described below, such member shall only receive prorated service credit based on the contributions made by the member and the member's employer while the member is receiving a temporary total disability benefit under Section 1 et seq. of Title 85A of the Oklahoma Statutes. Whenever any member is unable to perform the member's duties because of sickness or temporary disability caused or sustained while in the discharge of the member's duty as a member and is receiving a temporary disability benefit under Section 1 et seq. of Title 85A of the Oklahoma Statutes, such member shall have the option to purchase service credit for the time related to such leave of absence for such sickness or temporary disability.

1. The payment for such purchase must be completed no later than three (3) years from the date the member commenced receipt of a temporary total disability benefit.

2. The purchase price shall be:

- a. the actual paid base salary that the member was entitled to immediately prior to the member's sickness or temporary disability minus any vacation or sick leave payments received by the member during such sickness or temporary disability, multiplied by,
- b. the following ~~percent~~, as applicable:
 - (1) ~~eighteen percent (18%)~~ the combined employer and member contribution percentages, pursuant to Section 2-304 of this title, for members who are suspended without pay, or
 - (2) ~~eight percent (8%)~~ the member contribution percentage, pursuant to Section 2-304 of this title, for members who are not suspended without pay.

If such member has not been suspended without pay, the employer shall contribute, within three (3) months of the completion of the member's purchase of service credit, ~~ten percent (10%) of the~~ employer contribution percentage, pursuant to Section 2-304 of this title, times the actual paid base salary that the member was entitled to immediately prior to the member's sickness or temporary disability minus any vacation or sick leave payments received by the member during such sickness or temporary disability.

3. The member may purchase such service credit through:

- a. a cash lump-sum payment,
- b. a trustee-to-trustee transfer of non-Roth funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), and/or a Code Section 401(a) qualified plan,
- c. a direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit

Individual Retirement Account or Annuity (IRA). Roth accounts, Coverdell Education Savings Accounts and after-tax contributions shall not be used to purchase such service credit, or

d. any combination of the above methods of payment.

SECTION 4. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 13th day of March, 2025.

Presiding Officer of the House
of Representatives

Passed the Senate the 28th day of April, 2025.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

THOMAS E. CUMMINS CONSULTING ACTUARY, INC.

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December 20, 2024

Representative Kelley
Room 242

Re: RBH No. 10296

RBH No. 10296 adds CLEET certified Police officers employed by University of Oklahoma or Oklahoma State University to become participants in the Oklahoma Law Enforcement Retirement System. Current participants of Oklahoma Teachers Retirement System contributions will be transferred OLEERS to purchase prior years of service.

RBS No. 10296 is a fiscal bill as defined OPLAAA because it increases the accrued actuarial liability. The bill will not increase the unfunded accrued actuarial liability.

I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Thomas E. Cummins

Thomas E. Cummins, MAAA