

SENATE FLOOR VERSION

February 24, 2020

SENATE BILL NO. 1827

By: Weaver

An Act relating to law enforcement pension; amending 47 O.S. 2011, Sections 2-305, as last amended by Section 3, Chapter 44, O.S.L. 2018 and 2-310.2 (47 O.S. Supp. 2019, Section 2-305), which relate to retirement pay and inability to perform duties; modifying retirement provisions for members retiring due to service related disability; providing limit for retirement pay for certain persons; providing certification of specified salaries; providing guarantee of benefit amount for certain retired persons; authorizing Board of Trustees to promulgate rules; and updating statutory references.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 2-305, as last amended by Section 3, Chapter 44, O.S.L. 2018 (47 O.S. Supp. 2019, 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 agency in a position which is not covered by the System, such retired member shall continue to receive in-service distributions from the System. Prior to September 19, 2002, if such retired member was reemployed by a state agency in a position which is covered by the System, such member shall continue to receive in-service distributions from the System and shall not accrue any further credited service. If such a member is reemployed by a state agency in a position which is covered by the System on or after September 19, 2002, such member's monthly retirement payments shall be suspended until such member retires and is not reemployed by a state agency in a position which is covered by the System.

B. Beginning July 1, 1994, members who retired or were eligible to retire prior to July 1, 1980, or their surviving spouses shall receive annual retirement pay, payable in equal monthly payments, equal to the greater of their current retirement pay, or two and one-half percent (2 1/2%) of the actual paid gross salary being currently paid to a highway patrol officer, at the time each such monthly retirement payment is made, multiplied by the retired member's years of credited service.

C. Except as otherwise provided by this subsection, members of the System whose salary is set by statute who have retired after completion of the mandatory twenty (20) years of service, and those

1 members with statutory salaries who retire after reaching the
2 mandatory twenty-year retirement, ~~or those members that had to~~
3 ~~retire due to a service-connected disability and were unable to~~
4 ~~complete the mandatory twenty-year retirement pursuant to subsection~~
5 ~~E of this section,~~ shall receive an annual retirement pay, payable
6 in equal monthly installments, based upon the greater of either:

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

- 15 a. Oklahoma Highway Patrolman,
- 16 b. Communications Dispatcher,
- 17 c. Capitol Patrolman,
- 18 d. Lake Patrolman, and
- 19 e. Oklahoma State Bureau of Investigation - Special Agent
- 20 or Criminalist; or

21 2. The member's final average salary as set forth in paragraph
22 9 of Section 2-300 of this title, multiplied by two and one-half
23 percent (2 1/2%), and multiplied by the number of years of credited
24 service and fraction thereof.

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

4 The provisions of paragraph 1 of this subsection shall not be
5 applicable to any member whose first participating service with the
6 System occurs on or after November 1, 2012.

7 D. Other members of the System whose retirement benefit is not
8 otherwise prescribed by this section who have retired after
9 completion of the mandatory twenty (20) years of service, and those
10 members who retire after reaching the mandatory twenty-year
11 retirement, ~~or those members that had to retire due to a service-~~
12 ~~connected disability and were unable to complete the mandatory~~
13 ~~twenty-year retirement pursuant to subsection E of this section,~~
14 shall receive an annual retirement pay, payable in equal monthly
15 payments, based upon the greater of either:

16 1. The actual average salary currently paid to the highest
17 nonsupervisory position in the participating agency, at the time
18 each such monthly payment is made, limited to the annual salary
19 limit of the Economic Growth and Tax Relief Reconciliation Act of
20 2001, as described in paragraph 9 of Section 2-300 of this title,
21 multiplied by two and one-half percent (2 1/2%), multiplied by the
22 number of years of credited service and fraction thereof for the
23 following positions:
24

- 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.

The provisions of paragraph 1 of this subsection shall not be applicable to any member whose first participating service with the System occurs on or after May 24, 2013.

E. A member who meets the definition of disability as defined in paragraph 11 of Section 2-300 of this title by direct reason of the performance of the member's duties as an officer shall receive a monthly benefit equal to ~~the greater of fifty percent (50%) of final average salary or two:~~

1. Two and one-half percent (2 1/2%) of final average salary ~~multiplied;~~

2. Multiplied by the:

a. twenty (20) years, if the member had performed less than twenty (20) years of credited service, regardless of the actual number of years of ~~the member's~~ credited service, performed by the member prior to the date of disability, or

b. if the member had performed twenty (20) or more years of credited service, the actual number of years of credited service and fraction thereof performed by the member;

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

a. the final average salary of the member, as set forth in paragraph 9 of Section 2-300 of this title; and

b. (1) the top base salary currently paid to the highest nonsupervisory position in the participating

agency of the member whose first participating service with the System occurred before November 1, 2012, at the time each monthly payment is made, limited to the annual salary limit of the Economic Growth and Tax Relief Reconciliation Act of 2001 described in paragraph 9 of Section 2-300 of this title, for the following positions:

- (a) Oklahoma Highway Patrolman,
- (b) Communications Dispatcher,
- (c) Capitol Patrolman,
- (d) Lake Patrolman, and
- (e) Oklahoma State Bureau of Investigation-Special Agent or Criminalist,

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

- (2) the actual average salary currently paid to the highest nonsupervisory position in the participating agency of the member whose first participating service with the System occurred before May 24, 2013, at the time each monthly payment is made, limited to the annual salary limit of the Economic Growth and Tax Relief

Reconciliation Act of 2001 described in paragraph
9 of Section 2-300 of this title, for the
following positions:

(a) Alcoholic Beverage Laws Enforcement (ABLE)
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,

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

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

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

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

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

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

12 2. Multiplied by:

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

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

21 3. Multiplied by a final average salary equal to:

22 a. the salary which the member would have received
23 pursuant to statutory salary schedules in effect upon
24 the date of the disability for twenty (20) years of

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

- 18 b. the actual final average salary of the member if the
19 member had performed twenty (20) or more years of
20 service prior to disability.

21 If such member participates in the Oklahoma Law Enforcement
22 Deferred Option Plan pursuant to Section 2-305.2 of this title, such
23 member's disability pension provided pursuant to this subsection
24 shall be adjusted as provided in Section 2-305.2 of this title to

1 account for such member's participation in the Oklahoma Law
2 Enforcement Deferred Option Plan.

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

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

16 I. For the purpose of determining the member's disability under
17 subsection E, F or G of this section, the member shall be required
18 by the Board to be examined by a minimum of two recognized
19 physicians selected by the Board to determine the extent of the
20 member's injury or illness. The examining physicians shall furnish
21 the Board a detailed written report of the injury or illness of the
22 examined member establishing the extent of disability and the
23 possibilities of the disabled member being returned to his or her
24 regular duties or an alternate occupation or service covered by the

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

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

20 K. At the postoffer, preemployment physical examination
21 required under paragraph 6 of Section 2-300 of this title, the
22 physician selected by the Board shall determine the extent to which
23 a new member is disabled. If a member is determined to be partially
24 disabled, the physician shall assign a percentage of disability to

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

15 L. In addition to the pension provided for under subsection F
16 of this section, if ~~said~~ the member has one or more children under
17 the age of eighteen (18) years or under the age of twenty-two (22)
18 years if the child is enrolled full time in and is regularly
19 attending a public or private school or any institution of higher
20 education, Four Hundred Dollars (\$400.00) a month shall be paid from
21 ~~said~~ the Fund for the support of each surviving child to the member
22 or person having the care and custody of such children until each
23 child reaches the age of eighteen (18) years or reaches the age of
24 twenty-two (22) years if the child is enrolled full time in and is

1 regularly attending a public or private school or any institution of
2 higher education.

3 M. Notwithstanding any other provisions in Section 2-300
4 through 2-315 of this title, in order to be eligible to receive
5 disability benefits, a member who meets the definition of disability
6 as defined in paragraph 11 of Section 2-300 of this title shall file
7 the member's completed application for disability benefits with the
8 System before such member's date of termination from service and
9 provide such additional information that the System's rules require
10 within six (6) months of the System's receipt of such application.
11 If the member's completed application for disability benefits is not
12 filed with the System before the member's date of termination from
13 service or such additional information as is required under the
14 System's rules is not provided within six (6) months of the System's
15 receipt of such application, such member shall be eligible only for
16 such other benefits as are available to members of the System and
17 shall not be eligible to receive any disability benefits. For good
18 cause shown, the Board of Trustees may waive the requirement that
19 the disability application be filed before the member's date of
20 termination from service. In no event shall a member be eligible to
21 receive any disability benefit if the member's completed application
22 is filed more than six (6) months after the member's date of
23 termination from service.
24

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

SECTION 2. AMENDATORY 47 O.S. 2011, Section 2-310.2, is amended to read as follows:

Section 2-310.2. Whenever any member of the Oklahoma Law Enforcement Retirement System currently working in a position identified by paragraph 6 of Section 2-300 of ~~Title 47 of the Oklahoma Statutes~~ this title who is enrolled in the Oklahoma Law Enforcement Retirement System 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 such member, notwithstanding the provisions of Section 840-2.21 of Title 74 of the Oklahoma Statutes or the provisions of ~~Sections 11 and 12 of Title 85~~ Title 85A of the Oklahoma Statutes, the member may be placed on administrative leave with pay by the employing agency for a period of ninety (90) days with the employing agency having the option of extending the leave period for up to an additional ninety

(90) days, not to exceed a total of one hundred eighty (180) days.
The member's salary and benefits shall continue to be paid by the
employing agency without any decrease or disruption of ~~said~~ the
salary and benefits. If the recovery period is longer than one
hundred eighty (180) days, the member shall use sick leave, annual
leave or other authorized leave. Should a member receiving a salary
under this section be eligible to receive and should the salary of
the member under this section exceed any temporary disability
benefit paid to the member under Section 1 et seq. of Title ~~85~~ 85A
of the Oklahoma Statutes, the member shall transfer such temporary
disability benefits under Section 1 et seq. of Title ~~85~~ 85A of the
Oklahoma Statutes to the employing agency while the member is sick
or temporarily disabled.

COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
February 24, 2020 - DO PASS