

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2302

By: Stites

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Law Enforcement Retirement System; amending 47 O.S. 1991, Sections 2-300, as last amended by Section 22, Chapter 257, O.S.L. 1999, 2-301, as last amended by Section 2, Chapter 55, O.S.L. 1996, 2-303.1, as last amended by Section 4, Chapter 290, O.S.L. 1996, 2-305, as last amended by Section 1, Chapter 315, O.S.L. 1996, 2-306, as last amended by Section 7, Chapter 419, O.S.L. 1998 and 2-308 (47 O.S. Supp. 1999, Sections 2-300, 2-301, 2-303.1, 2-305 and 2-306), which relate to administration of the System; modifying definitions; providing certain persons excluded from further participation in System; authorizing election to acquire service credit in Oklahoma Public Employees Retirement System; prescribing method for acquiring service; providing for confidentiality; authorizing use of information for certain purposes; specifying duration of certain disability benefit; prescribing method for computation of disability benefit; requiring determination of disability; requiring reduction of benefit based upon pre-existing disability; modifying benefit for certain survivors; modifying applicability of certain death benefit payments; modifying provision related to payment of benefits to certain children; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 2-300, as last amended by Section 22, Chapter 257, O.S.L. 1999 (47 O.S. Supp. 1999, Section 2-300), is amended to read as follows:

Section 2-300. As used in this act:

1. "System" means the Oklahoma Law Enforcement Retirement System;
2. "Act" means Sections 2-300 through 2-313 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. "Member" means all law enforcement officers of the Oklahoma Highway Patrol and the State Capitol Division of the Department of Public Safety and all commissioned officers in the Gunsmith/Ammunition Reloader Division of the Department of Public Safety who have obtained certification from the Council on Law Enforcement Education and Training, the Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and the and prevention of crime and the enforcement Oklahoma Alcoholic Beverage Control Board designated to perform duties in the investigation of the criminal laws of this state, and members of the Communications Division to include radio technicians, tower technicians and commissioned officers of the Lake Patrol Division of the Oklahoma Department of Public Safety, park rangers of the Oklahoma Tourism and Recreation Department and inspectors of the Oklahoma State Board of Pharmacy, 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. A member does not include a "leased employee" or independent contractor, including a leased employee, as defined under Section 414(n)(2) of the Internal Revenue Code of 1986, as amended. Any individual who contracts with the Board for services 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, provided that all persons who shall be offered a position of a law enforcement officer 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:

- a. 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,
- b. said physical-medical examination shall pertain to age, sight, hearing, agility and other conditions the requirements of which shall be established by the Board,
- c. 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,
- d. the Board shall have authority to deny or revoke membership of any person submitting false information in such person's membership application, and
- e. the Board shall have final authority in determining eligibility for membership in the System, pursuant to the provisions of this subsection;

7. "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;

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; or
2. The actual retirement date of the member. The preceding sentence does not allow deferral of benefit commencement beyond the age of sixty-five (65).

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. "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. "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 and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986. Only salary on which required contributions have been made may be used in computing the final average salary.

In addition to other applicable limitations, and notwithstanding any other provision to the contrary, for plan years beginning on or after July 1, 1996, the annual gross salary of each "Noneligible Member" taken into account under the System shall not exceed the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) annual salary limit. The OBRA '93 annual salary limit is One Hundred Fifty Thousand Dollars (\$150,000.00), 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 OBRA '93 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, 1996, 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 OBRA '93 salary limit set forth in this provision.

If gross salary for any prior determination period is taken into account in determining a Noneligible Member's benefits accruing in the current plan year, the gross salary for that prior determination period is subject to the OBRA '93 annual salary limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after July 1, 1996, the OBRA '93 annual salary limit is One Hundred Fifty Thousand Dollars (\$150,000.00).

Effective July 1, 1989, through June 30, 1997, in determining the gross salary of a member for purposes of this limitation, the rules of Section 414(q) (6) of the Internal Revenue Code of 1986, as amended, shall apply, except in applying such rules, the term "family" shall include only the spouse of the member and any lineal descendants of the member who have not attained age nineteen (19) before the close of the year. If, as a result of the application of such rules, the adjusted annual salary limitation is exceeded, then the limitation shall be prorated among the affected individuals in proportion to each such individual's gross salary as determined under this section prior to the application of this limitation.

The family member aggregation rules set forth in the preceding paragraph shall apply only to plan years beginning prior to July 1, 1997;

10. "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 officers 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 Oklahoma Alcoholic Beverage Control Board 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 Oklahoma 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 State Capitol 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. 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;

11. "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; ~~and~~

12. "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. "Line of duty" means any action which a member whose primary function is crime control or reduction, 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;

14. "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;

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

16. "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.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 2-301, as last amended by Section 2, Chapter 55, O.S.L. 1996 (47 O.S. Supp. 1999, Section 2-301), is amended to read as follows:

Section 2-301. A. There is hereby established a System for the payment of retirement benefits and certain medical and hospital expenses of members of the Oklahoma Law Enforcement Retirement System. Such System shall constitute an amendment and continuation of the Retirement and Pension Plan of the Department of Public Safety and members in the Retirement and Pension Plan on June 30, 1980, shall continue as members of the Oklahoma Law Enforcement Retirement System. There is established in the State Treasury a special fund designated as the "Oklahoma Law Enforcement Retirement Fund" for the benefit of members of the System and certain dependents of deceased members of the System. Such fund shall be a continuation, under a new name, of the Retirement and Pension Fund of the Department of Public Safety.

B. There is hereby created the Retirement Medical Benefit Fund. The fund shall be maintained as a subaccount of the Oklahoma Law Enforcement Retirement Fund. The Retirement Medical Benefit Fund is composed of all assets which may be contributed to this subaccount to pay the retirement system's portion of the monthly retiree health insurance premium benefit described by Section 1316.2 of Title 74 of the Oklahoma Statutes. All such allocated assets and any earnings thereon in the Retirement Medical Benefit Fund shall be held for the exclusive purpose of providing retiree medical benefits. The Retirement Medical Benefit Fund is to be administered in accordance with the requirements of Section 401(h) of the Internal Revenue Code of 1986, as amended from time to time. The Board of Trustees may promulgate such rules as are necessary to implement the funding and administration of the fund pursuant to the provisions of this subsection.

C. Appointment to any position within a covered agency which comes under this System shall not jeopardize the rights of any person who has previously qualified for membership under this System, provided, that the individual contributions are continued, and such person remains a member of this System.

D. Any person who has previously qualified for membership under the System who voluntarily seeks and accepts appointment to any position within a covered agency which is not a covered position excludes the member from further participation in this System. A member excluded from further participation may make an election as authorized by Section 3 of this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-300.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. A member of the Oklahoma Law Enforcement Retirement System who is excluded from further participation in the System pursuant to subsection D of Section 2-301 of Title 47 of the Oklahoma Statutes, may, in addition to any other option authorized by law pursuant to the member's total amount of credited service with the System, remain employed in the position to which the employee was appointed pursuant to subsection D of Section 2-301 of Title 47 of the Oklahoma Statutes, without a break in service, and make an election to acquire service in the Oklahoma Public Employees Retirement System.

B. For a member making an election pursuant to subsection A of this section, the Oklahoma Law Enforcement Retirement System shall transfer the member's accumulated employee contributions to the Oklahoma Public Employees Retirement System. The Oklahoma Public Employees Retirement System shall compute the number of years of service credit available to the member using the actuarial cost method prescribed by Section 913.5 of Title 74 of the Oklahoma Statutes. Any service not purchased in the Oklahoma Public

Employees Retirement System shall be canceled in the Oklahoma Law Enforcement Retirement System.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 2-303.1, as last amended by Section 4, Chapter 290, O.S.L. 1996 (47 O.S. Supp. 1999, Section 2-303.1), is amended to read as follows:

Section 2-303.1 A. The Oklahoma Law Enforcement Retirement Board shall discharge its duties with respect to the System solely in the interest of the participants and beneficiaries and:

1. For the exclusive purpose of:

- a. providing benefits to participants and their beneficiaries, and
- b. defraying reasonable expenses of administering the System;

2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

3. By diversifying the investments of the System so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

4. In accordance with the laws, documents and instruments governing the System.

B. The Board may procure insurance indemnifying the members of the Board from personal loss or accountability from liability resulting from a member's action or inaction as a member of the Board.

C. The Board may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the Board appointed by the president of the Board. The committee shall make recommendations to the full Board on all matters related to the choice of custodians and managers of the assets of the System, on the establishment of investment and fund

management guidelines, and in planning future investment policy.

The committee shall have no authority to act on behalf of the Board in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the Board nor take effect without the approval of the Board as provided by law.

D. The Board shall retain qualified investment managers to provide for the investment of the monies of the System. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board. Subject to the overall investment guidelines set by the Board, the investment managers shall have full discretion in the management of those monies of the System allocated to the investment managers. The Board shall manage those monies not specifically allocated to the investment managers. The monies of the System allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

E. Funds and revenues for investment by the investment managers or the Board shall be placed with a custodian selected by the Board. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board. In compliance with the investment policy guidelines of the Board, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the System are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the System as to the investment of the monies of the System in specific investment

vehicles, the custodian bank or trust company shall be contractually responsible to the Board for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

F. Prior to August 1 of each year, the Board shall develop a written investment plan for the System.

G. The Board shall compile a quarterly financial report of all the funds of the System on a fiscal year basis. The report shall be compiled pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The Board shall include in the quarterly reports all commissions, fees or payments for investment services performed on behalf of the Board. The report shall be distributed to the Governor, the Oklahoma State Pension Commission, the Legislative Service Bureau, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

H. After July 1 and before October 1 of each year, the Board shall publish widely an annual report presented in simple and easily understood language pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Oklahoma State Pension Commission and the members of the System. The annual report shall cover the operation of the System during the past fiscal year, including income, disbursements, and the financial condition of the System at the end of the fiscal year. The annual report shall also contain the information issued in the quarterly reports required pursuant to

subsection G of this section as well as a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over funded status, contributions and any other information deemed relevant by the Board. The annual report shall be written in such a manner as to permit a readily understandable means for analyzing the financial condition and performance of the System for the fiscal year. The annual financial statements must be audited and filed in accordance with the requirements set forth for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes.

I. The Board may retain an attorney licensed to practice law in this state. The attorney shall serve at the pleasure of the Board for such compensation as set by the Board. The Attorney General shall furnish such legal services as may be requested by the Board.

J. All information, documents and copies thereof contained in a member's retirement file shall be given confidential treatment and shall not be made public by the System without the prior written consent of the member to which it pertains, but shall be subject only to court order. Provided, the System, its employees or attorneys, may use said records in defense of any action brought against the System.

SECTION 5. AMENDATORY 47 O.S. 1991, Section 2-305, as last amended by Section 1, Chapter 315, O.S.L. 1996 (47 O.S. Supp. 1999, 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 System upon application therefor 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. No member shall be required to retire for length of service unless and until the member shall have reached the age of

sixty (60) years, but any member of the System who shall have reached the age of sixty (60) years and who shall also have completed twenty (20) years or more of credited service shall be retired by the Board unless, after application to the Board and such examination and showing as the Board may deem proper, the Board shall determine that such member of the System is physically and mentally able to continue to perform duties or service as required of a member. Unless such application be made by a member of the System within thirty (30) days after reaching the age of sixty (60) years and completing twenty (20) years or more of credited service or if, after such application and examination, the Board shall determine that such member of the System is not physically or mentally able to continue to perform services as required of the employer, the Board shall by resolution order his retirement with retirement pay for length of service as provided herein.

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. A member who meets the definition of disability as defined in Section 2-300 of this title and whose disability occurred prior to the member's normal retirement date ~~and by direct reason of the performance of the member's duties as an officer~~ and whose disability is by means of personal and traumatic injury of a catastrophic nature and in the line of duty shall receive a monthly benefit equal to ~~the greater of fifty percent (50%) of final average salary or two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of the member's credited service.:~~

1. Two and one half percent (2.5 %);

2. Multiplied by:

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

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

3. Multiplied by a final average salary equal to:

a. the salary which the member would have received pursuant to statutory salary schedules in effect upon the date of the disability for twenty (20) years of service prior to disability. The final average salary for a member who performed less than twenty (20) years of service prior to disability shall be computed assuming that the member was paid the highest salary allowable pursuant to the law in effect at the time of the member's disability based upon twenty (20) years of service and with an assumption that the member was eligible for any and all increases in pay based upon rank during the entire period. If the salary of a member is not prescribed by a specific salary schedule upon the date of the member's disability, the final average salary for the member shall be computed by the member's actual final average salary or the highest median salary amount for a member whose salary was prescribed by a specific salary schedule upon the date of the member's disability, whichever final average salary amount would be greater, or

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

4. The disability benefit under this subsection shall be for the lifetime of the member, and such member shall not be entitled to the retirement benefit under subsection A of this section.

D. A member who meets the definition of disability as defined in Section 2-300 of this title and whose disability occurred prior to the member's normal retirement date but after completing three (3) years of vesting service and not by reason of the performance of the member's duties as an officer or as a result of the member's willful negligence shall receive a monthly benefit equal to two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of the member's credited service. For the purpose of determining the member's disability under the System, the member shall be required by the Board to be examined by a minimum of two recognized physicians selected by the Board to determine the extent of his injury or illness. The examining physicians shall furnish the Board a detailed written report of the injury or illness of the examined member establishing the extent of disability and the possibilities of the disabled member being returned to his regular duties or an alternate occupation or service covered by the System after a normal recuperating period.

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

F. The Board shall require all retired disabled members who have not attained their normal retirement date to submit to a physical examination once each year for a minimum of three (3) years following retirement. The Board shall select a minimum of two

physicians to examine the retired members and pay for their services from the fund. Any retired disabled member found no longer disabled by the examining physicians to perform the occupation of the member or an alternate occupation or service covered by the System shall be required to return to duty and complete twenty (20) years of service as provided in subsection A of this section, or forfeit all his rights and claims under this act.

G. At the post-offer, pre-employment physical examination required under paragraph 6 of Section 2-300 of this title, the physician selected by the Board shall determine the extent to which a new member is disabled. If a member is determined to be partially disabled, the physician shall assign a percentage of disability to such partial disability. If such member then becomes entitled to a disability benefit under either subsection C or subsection D of this section, the benefit payable shall be reduced by the percentage which such member was determined to be disabled at the post-offer, pre-employment physical unless the Board makes a determination that the initially determined percentage of disability at the pre-employment physical examination is unrelated to the reason for the disability currently sought pursuant to subsection C or D of this section. Upon employment, the member shall disclose to the Board any disability payments received from any source. The amount of disability to be paid to any member cannot exceed one hundred percent (100%) disability from all sources. The provisions of this subsection shall apply only to members whose effective date of membership is on or after July 1, 2000.

SECTION 6. AMENDATORY 47 O.S. 1991, Section 2-306, as last amended by Section 7, Chapter 419, O.S.L. 1998 (47 O.S. Supp. 1999, Section 2-306), is amended to read as follows:

Section 2-306. A. Upon the death of a retired member or upon the death of any member prior to retirement or other termination of

covered employment, a monthly pension shall be paid which shall be in an amount as provided below:

1. If the member was not retired and death occurred as the direct result of the performance of the member's duties as an officer, an amount equal to the monthly payments which would have been received by the member under subsection C of Section 2-305 of this title, had the member been totally disabled; or

2. If the member was not retired and death occurred other than as the direct result of the performance of the member's duties as an officer, an amount equal to the monthly payments which would have been received by the member under subsection D of Section 2-305 of this title had the member been totally disabled; or

3. If said member was retired for length of service, an amount equal to the member's monthly payments; or

4. If said member was retired for total disability, an amount equal to the member's monthly payments; or

5. If said member was retired for partial disability, an amount equal to the monthly payments which would have been received by said member had the member been totally disabled.

B. The pension provided for in subsection A of this section shall be paid:

1. Except as provided in paragraph 4 of this subsection, to the surviving spouse, provided the surviving spouse was married to the member at the time of the member's death, and continuously for the thirty (30) months immediately preceding the member's death, provided a surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for the employer, shall not be subject to the thirty-month marriage requirement for survivor benefits; or

2. If there is no surviving spouse or upon the death of a spouse:

- a. to the person having the care and custody of any surviving child or children of said member for such time as such child or children are under the age of eighteen (18) years, or
- b. to the surviving child or children between the age of eighteen (18) and twenty-two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education if the school or institution is located within the State of Oklahoma;

3. If there is no surviving spouse or children under the age of eighteen (18) years or under the age of twenty-two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education if the school or institution is located within the State of Oklahoma, to the dependent parent or parents of said member, for life; or

4. In the event a surviving spouse remarried prior to June 7, 1993, and was a surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for the employer, the surviving spouse shall be eligible to receive the pension benefits provided for in subsection A of this section.

To receive the pension benefits provided for in subsection A of this section the surviving spouse falling within this paragraph shall submit a written request for such benefits to the Oklahoma Law Enforcement Retirement System. The Oklahoma Law Enforcement Retirement System shall approve requests by surviving spouses meeting the requirements of this paragraph. Upon approval by the Oklahoma Law Enforcement Retirement System, the surviving spouse shall be entitled to the pension benefits provided for in subsection A of this section beginning from the date of approval forward. Pension benefits provided to surviving spouses falling within this paragraph shall not apply to alter any amount of pension benefits

paid or due prior to the Oklahoma Law Enforcement Retirement System's approval of the remarried surviving spouse's written request for benefits.

No surviving spouse shall receive benefits from this section, Section 49-113 of Title 11 of the Oklahoma Statutes, or Section 50-117 of Title 11 of the Oklahoma Statutes as the surviving spouse of more than one member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, or the Oklahoma Law Enforcement Retirement System. The surviving spouse of more than one member shall elect which member's benefits he or she will receive.

C. In addition to the pension above provided for, if said member leaves a surviving spouse and one or more children under the age of eighteen (18) years or under the age of twenty-two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education if the school or institution is located within the State of Oklahoma, ~~One Hundred Dollars (\$100.00)~~ Four Hundred Dollars (\$400.00) a month shall be paid from said Fund for the support of each surviving child to the person having the care and custody of such children during such time as said spouse remains alive and until each child reaches the age of eighteen (18) years or reaches the age of twenty-two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education.

D. Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the beneficiary of the member or to the member's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

SECTION 7. AMENDATORY 47 O.S. 1991, Section 2-308, is amended to read as follows:

Section 2-308. A. A member who terminates his service before normal retirement date, other than by death or disability, shall, upon application filed with the Board, be entitled to be refunded from the fund an amount equal to the accumulated contributions the member has made to the fund, but excluding any interest or any amount contributed by the state. If such member has completed ten (10) years of credited service at the date of termination, the member may elect a vested benefit in lieu of receiving his accumulated contributions.

If the member who has completed ten (10) or more years of credited service elects the vested benefit, the member shall be entitled to a monthly retirement annuity commencing on the member's normal retirement date to be determined as if the member's employment continued uninterrupted. The annual amount of such retirement annuity shall be equal to two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of credited service. The death benefits provided for under Section 2-306 of this title shall ~~not~~ apply to any member retiring under the provisions of this subsection.

B. A member who terminated service before the normal retirement date of such member and elected a vested benefit in lieu of receiving accumulated contributions may upon reemployment be allowed full credit toward retirement for all credited service accrued for the vested benefit. This subsection shall apply to employees of the Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety and the Oklahoma Alcoholic Beverage Control Board whose benefits had vested in the Oklahoma Public Employees Retirement System prior to the establishment of the Oklahoma Law Enforcement Retirement System. Upon reemployment of said employee by an agency

whose employees are now members of the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System shall transfer to the Oklahoma Law Enforcement Retirement System all funds contributed by the individual member being reemployed and all funds contributed by the state for such member.

SECTION 8. This act shall become effective July 1, 2000.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and 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.

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