

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

HOUSE BILL 1662

By: Osborn

AS INTRODUCED

An Act relating to public retirement systems; amending 47 O.S. 2001, Sections 2-300, as last amended by Section 8, Chapter 437, O.S.L 2010, 2-304, 2-305, as last amended by Section 10, Chapter 438, O.S.L. 2010 and 2-305.2, as last amended by Section 11, Chapter 437, O.S.L. 2010 (47 O.S. Supp. 2010, Sections 2-300, 2-305 and 2-305.2), which relate to the Oklahoma Law Enforcement Retirement System; modifying definitions; modifying vesting requirements for certain members; modifying required employee contribution amount for certain members; modifying formula for purposes of benefit computation for certain members; providing certain benefit computations inapplicable to members based upon date of initial participation in Oklahoma Law Enforcement Retirement System; providing certain members ineligible to participate in Oklahoma Law Enforcement Deferred Option Plan; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 2-300, as last amended by Section 8, Chapter 437, O.S.L. 2010 (47 O.S. Supp. 2010, Section 2-300), is amended to read as follows:

Section 2-300. As used in Section 2-300 et seq. of this title:

1 1. "System" means the Oklahoma Law Enforcement Retirement
2 System;

3 2. "Act" means Section 2-300 et seq. of this title;

4 3. "Board" means the Oklahoma Law Enforcement Retirement Board
5 of the System;

6 4. "Executive Director" means the managing officer of the
7 System employed by the Board;

8 5. "Fund" means the Oklahoma Law Enforcement Retirement Fund;

9 6. a. "Member" means:

10 (1) all commissioned law enforcement officers of the
11 Oklahoma Highway Patrol Division of the
12 Department of Public Safety who have obtained
13 certification from the Council on Law Enforcement
14 Education and Training, and all cadets of a
15 Patrol Academy of the Department of Public
16 Safety,

17 (2) law enforcement officers and criminalists of the
18 Oklahoma State Bureau of Investigation,

19 (3) law enforcement officers of the Oklahoma State
20 Bureau of Narcotics and Dangerous Drugs Control
21 designated to perform duties in the investigation
22 and prevention of crime and the enforcement of
23 the criminal laws of this state,

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- 1 (4) law enforcement officers of the Oklahoma
2 Alcoholic Beverage Laws Enforcement Commission
3 designated to perform duties in the investigation
4 and prevention of crime and the enforcement of
5 the criminal laws of this state,
- 6 (5) employees of the Communications Section of the
7 Oklahoma Highway Patrol Division, radio
8 technicians, and tower technicians of the
9 Department of Public Safety, who are employed in
10 any such capacity as of June 30, 2008, and who
11 remain employed on or after July 1, 2008, until a
12 termination of service, or until a termination of
13 service with an election of a vested benefit from
14 the System, or until retirement. Effective July
15 1, 2008, a person employed for the first time as
16 an employee of the Department of Public Safety in
17 the Communications Division as an information
18 systems telecommunication technician of the
19 Department of Public Safety shall not be a member
20 of the System,
- 21 (6) park rangers of the Oklahoma Tourism and
22 Recreation Department and any park manager or
23 park supervisor of the Oklahoma Tourism and
24 Recreation Department who was employed in such a

1 position prior to July 1, 1985, and who elects on
2 or before September 1, 1996, to participate in
3 the System, and

4 (7) inspectors of the Board of Pharmacy.

5 b. Effective July 1, 1987, a member does not include a
6 "leased employee" as defined under Section 414(n)(2) of
7 the Internal Revenue Code of 1986, as amended.

8 Effective July 1, 1999, any individual who agrees with
9 the participating employer that the individual's
10 services are to be performed as a leased employee or
11 an independent contractor shall not be a member
12 regardless of any classification as a common-law
13 employee by the Internal Revenue Service or any other
14 governmental agency, or any court of competent
15 jurisdiction.

16 c. All persons who shall be offered a position of a
17 commissioned law enforcement officer as an employee of
18 one of the agencies described in subparagraph a of
19 this paragraph shall participate in the System upon
20 the person meeting the requisite post-offer-pre-
21 employment physical examination standards which shall
22 be subject to the following requirements:

23 (1) all such persons shall be of good moral
24 character, free from deformities, mental or

1 physical conditions, or disease and alcohol or
2 drug addiction which would prohibit the person
3 from performing the duties of a law enforcement
4 officer,

5 (2) said physical-medical examination shall pertain
6 to age, sight, hearing, agility and other
7 conditions the requirements of which shall be
8 established by the Board,

9 (3) the person shall be required to meet the
10 conditions of this subsection prior to the
11 beginning of actual employment but after an offer
12 of employment has been tendered by a
13 participating employer,

14 (4) the Board shall have authority to deny or revoke
15 membership of any person submitting false
16 information in such person's membership
17 application, and

18 (5) the Board shall have final authority in
19 determining eligibility for membership in the
20 System, pursuant to the provisions of this
21 subsection;

22 7. "Normal retirement date" means the date at which the member
23 is eligible to receive the unreduced payments of the member's
24

1 accrued retirement benefit. Such date shall be the first day of the
2 month coinciding with or following the date the member:

3 a. completes:

4 (1) twenty (20) years of vesting service with respect
5 to a member whose initial employment and
6 participating service in the System occurred
7 prior to November 1, 2011, or

8 (2) twenty-five (25) years of vesting service with
9 respect to a member whose initial employment and
10 participating service in the System occurs on or
11 after November 1, 2011, or

12 b. attains sixty-two (62) years of age with:

13 (1) ten (10) years of vesting service with respect to
14 a member whose initial employment and
15 participating service in the System occurred
16 prior to November 1, 2011, or

17 (2) twelve (12) years and six (6) months of vesting
18 service with respect to a member whose initial
19 employment and participating service in the
20 System occurs on or after November 1, 2011, or

21 c. attains sixty-two (62) years of age, if:

22 (1) the member has been transferred to this System
23 from the Oklahoma Public Employees Retirement
24 System on or after July 1, 1981, and

1 (2) the member would have been vested had the member
2 continued to be a member of the Oklahoma Public
3 Employees Retirement System.

4 With respect to distributions under the System made for calendar
5 years beginning on or after January 1, 2005, the System shall apply
6 the minimum distribution incidental benefit requirements, incidental
7 benefit requirements, and minimum distribution requirements of
8 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
9 in accordance with the final regulations under Section 401(a)(9) of
10 the Internal Revenue Code of 1986, as amended, which were issued in
11 April 2002 and June 2004, notwithstanding any provision of the
12 System to the contrary. With respect to distributions under the
13 System made for calendar years beginning on or after January 1,
14 2001, through December 31, 2004, the System shall apply the minimum
15 distribution requirements and incidental benefit requirements of
16 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
17 in accordance with the regulations under Section 401(a)(9) of the
18 Internal Revenue Code of 1986, as amended, which were proposed in
19 January 2001, notwithstanding any provision of the System to the
20 contrary.

21 Effective July 1, 1989, notwithstanding any other provision
22 contained herein to the contrary, in no event shall commencement of
23 distribution of the accrued retirement benefit of a member be
24 delayed beyond April 1 of the calendar year following the later of:

1 (1) the calendar year in which the member reaches seventy and one-
2 half (70 1/2) years of age; or (2) the actual retirement date of the
3 member. The preceding sentence does not allow deferral of benefit
4 commencement beyond the age of sixty-five (65).

5 A member who was required to join the System effective July 1,
6 1980, because of the transfer of the employing agency from the
7 Oklahoma Public Employees Retirement System to the System, and was
8 not a member of the Oklahoma Public Employees Retirement System on
9 the date of such transfer shall be allowed to receive credit for
10 prior law enforcement service rendered to this state, if the member
11 is not receiving or eligible to receive retirement credit or
12 benefits for such service in any other public retirement system,
13 upon payment to the System of the employee contribution the member
14 would have been subject to had the member been a member of the
15 System at the time, plus five percent (5%) interest. Service credit
16 received pursuant to this paragraph shall be used in determining the
17 member's retirement benefit, and shall be used in determining years
18 of service for retirement or vesting purposes;

19 8. "Actual paid base salary" means the salary received by a
20 member, excluding payment for any accumulated leave or uniform
21 allowance. Salary shall include any amount of nonelective salary
22 reduction under Section 414(h) of the Internal Revenue Code of 1986;

23 9. "Final average salary" means the average of the highest
24 thirty (30) consecutive complete months of actual paid gross salary.

1 Gross salary shall include any amount of elective salary reduction
2 under Section 457 of the Internal Revenue Code of 1986, as amended,
3 and any amount of nonelective salary reduction under Section 414(h)
4 of the Internal Revenue Code of 1986, as amended. Effective July 1,
5 1992, gross salary shall include any amount of elective salary
6 reduction under Section 125 of the Internal Revenue Code of 1986, as
7 amended. Effective July 1, 1998, gross salary shall include any
8 amount of elective salary reduction not includable in the gross
9 income of the member under Section 132(f)(4) of the Internal Revenue
10 Code of 1986, as amended. Effective July 1, 1998, for purposes of
11 determining a member's compensation, any contribution by the member
12 to reduce his or her regular cash remuneration under Section
13 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be
14 treated as if the member did not make such an election. Only salary
15 on which required contributions have been made may be used in
16 computing the final average salary. Gross salary shall not include
17 severance pay.

18 In addition to other applicable limitations, and notwithstanding
19 any other provision to the contrary, for plan years beginning on or
20 after July 1, 2002, the annual gross salary of each "Noneligible
21 Member" taken into account under the System shall not exceed the
22 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")
23 annual salary limit. The EGTRRA annual salary limit is Two Hundred
24 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for

1 increases in the cost of living in accordance with Section
2 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The
3 annual salary limit in effect for a calendar year applies to any
4 period, not exceeding twelve (12) months, over which salary is
5 determined ("determination period") beginning in such calendar year.
6 If a determination period consists of fewer than twelve (12) months,
7 the EGTRRA salary limit will be multiplied by a fraction, the
8 numerator of which is the number of months in the determination
9 period, and the denominator of which is twelve (12). For purposes
10 of this section, a "Noneligible Member" is any member who first
11 became a member during a plan year commencing on or after July 1,
12 1996.

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

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

1 Effective January 1, 2008, any payments not described above
2 shall not be considered gross salary if paid after severance from
3 employment, even if they are paid by the later of two and one-half
4 (2 1/2) months after the date of severance from employment or the
5 end of the calendar year that includes the date of severance from
6 employment, except payments to an individual who does not currently
7 perform services for the employer by reason of qualified military
8 service within the meaning of Section 414(u)(5) of the Internal
9 Revenue Code of 1986, as amended, to the extent these payments do
10 not exceed the amounts the individual would have received if the
11 individual had continued to perform services for the employer rather
12 than entering qualified military service.

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

18 Effective for years beginning after December 31, 2008, gross
19 salary shall also include differential wage payments under Section
20 414(u)(12) of the Internal Revenue Code of 1986, as amended;

21 10. "Credited service" means the period of service used to
22 determine the amount of benefits payable to a member. Credited
23 service shall consist of the period during which the member
24 participated in the System or the predecessor Plan as an active

1 employee in an eligible membership classification, plus any service
2 prior to the establishment of the predecessor Plan which was
3 credited under the predecessor Plan and for law enforcement officers
4 and criminalists of the Oklahoma State Bureau of Investigation and
5 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
6 who became members of the System on July 1, 1980, any service
7 credited under the Oklahoma Public Employees Retirement System as of
8 June 30, 1980, and for members of the Communications and Lake Patrol
9 Divisions of the Oklahoma Department of Public Safety, who became
10 members of the System on July 1, 1981, any service credited under
11 the predecessor Plan or the Oklahoma Public Employees Retirement
12 System as of June 30, 1981, and for law enforcement officers of the
13 Alcoholic Beverage Laws Enforcement Commission who became members of
14 the System on July 1, 1982, any service credited under the Oklahoma
15 Public Employees Retirement System as of June 30, 1982, and for park
16 rangers of the Oklahoma Tourism and Recreation Department who became
17 members of the System on July 1, 1985, any service credited under
18 the Oklahoma Public Employees Retirement System as of June 30, 1985,
19 and for inspectors of the Oklahoma State Board of Pharmacy who
20 became members of the System on July 1, 1986, any service credited
21 under the Oklahoma Public Employees Retirement System as of June 30,
22 1986, for law enforcement officers of the Oklahoma Capitol Patrol
23 Division of the Department of Public Safety who became members of
24 the System effective July 1, 1993, any service credited under the

1 Oklahoma Public Employees Retirement System as of June 30, 1993, and
2 for all commissioned officers in the Gunsmith/Ammunition Reloader
3 Division of the Department of Public Safety who became members of
4 the System effective July 1, 1994, any service credited under the
5 Oklahoma Public Employees Retirement System as of June 30, 1994, and
6 for the park managers or park supervisors of the Oklahoma Tourism
7 and Recreation Department who were employed in such a position prior
8 to July 1, 1985, and who elect to become members of the System
9 effective September 1, 1996, any service transferred pursuant to
10 subsection C of Section 2-309.6 of this title and any service
11 purchased pursuant to subsection B of Section 2-307.2 of this title.
12 Effective August 5, 1993, an authorized leave of absence shall
13 include a period of absence pursuant to the Family and Medical Leave
14 Act of 1993;

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

24

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

4 13. "Line of duty" means any action which a member whose
5 primary function is crime control or reduction or enforcement of the
6 criminal law is obligated or authorized by rule, regulations,
7 condition of employment or service, or law to perform, including
8 those social, ceremonial, or athletic functions to which the member
9 is assigned, or for which the member is compensated, by the agency
10 the member serves;

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

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

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

22 17. "Beneficiary" means the individual designated by the member
23 on a beneficiary designation form supplied by the Oklahoma Law
24 Enforcement Retirement System, or if there is no designated

1 beneficiary or if the designated beneficiary predeceases the member,
2 the estate of the member. If the member's spouse is not designated
3 as the sole primary beneficiary, the member's spouse must sign a
4 consent.

5 SECTION 2. AMENDATORY 47 O.S. 2001, Section 2-304, is
6 amended to read as follows:

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

13 The Department of Public Safety, Oklahoma State Bureau of
14 Investigation, Oklahoma State Bureau of Narcotics and Dangerous
15 Drugs Control, the Oklahoma Alcoholic Beverage Control Board, the
16 Oklahoma Tourism and Recreation Department and the Oklahoma State
17 Board of Pharmacy shall contribute to the fund an amount equal to
18 ten percent (10%) of the actual paid base salary of each member.

19 B. Each With respect to a member whose initial employment and
20 participating service in the System occurred prior to November 1,
21 2011, each member of the System shall make contributions to the fund
22 in an amount equal to eight percent (8%) of the actual paid base
23 salary of the member. With respect to a member whose initial
24 employment and participating service in the System occurs on or

1 after November 1, 2011, each member of the System shall make
2 contributions to the fund in an amount equal to twelve percent (12%)
3 of the actual paid base salary of the member.

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

8 C. Each employer shall pick up under the provisions of Section
9 414(h)(2) of the Internal Revenue Code of 1986 and pay the
10 contribution which the member is required by law to make to the
11 System for all compensation earned after December 31, 1989. Although
12 the contributions so picked up are designated as member
13 contributions, such contributions shall be treated as contributions
14 being paid by the employer in lieu of contributions by the member in
15 determining tax treatment under the Internal Revenue Code of 1986
16 and such picked up contributions shall not be includable in the
17 gross income of the member until such amounts are distributed or
18 made available to the member or the beneficiary of the member. The
19 member, by the terms of this System, shall not have any option to
20 choose to receive the contributions so picked up directly and the
21 picked up contributions must be paid by the employer to the System.

22 Member contributions which are picked up shall be treated in the
23 same manner and to the same extent as member contributions made
24 prior to the date on which member contributions were picked up by

1 the participating employer. Member contributions so picked up shall
2 be included in gross salary for purposes of determining benefits and
3 contributions under the System.

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

7 SECTION 3. AMENDATORY 47 O.S. 2001, Section 2-305, as
8 last amended by Section 10, Chapter 438, O.S.L. 2010 (47 O.S. Supp.
9 2010, Section 2-305), is amended to read as follows:

10 Section 2-305. A. Except as otherwise provided in this title,
11 at any time after attaining normal retirement date, any member of
12 the Oklahoma Law Enforcement Retirement System upon application for
13 unreduced retirement benefits made and approved, may retire, and,
14 during the remainder of the member's lifetime, receive annual
15 retirement pay, payable in equal monthly payments, equal to two and
16 one-half percent (2 1/2%) of the final average salary times years of
17 credited service with respect to a member whose initial employment
18 and participating service in the System occurred prior to November
19 1, 2011. With respect to a member whose initial employment and
20 participating service in the System occurs on or after November 1,
21 2011, except as otherwise provided in this title, at any time after
22 attaining normal retirement date, such member of the Oklahoma Law
23 Enforcement Retirement System upon application for unreduced
24 retirement benefits made and approved, may retire, and, during the

1 remainder of the member's lifetime, receive annual retirement pay,
2 payable in equal monthly payments, equal to two percent (2%) of the
3 final average salary times years of credited service. If such
4 retired member is reemployed by a state agency in a position which
5 is not covered by the System, such retired member shall continue to
6 receive in-service distributions from the System. Prior to
7 September 19, 2002, if such retired member was reemployed by a state
8 agency in a position which is covered by the System, such member
9 shall continue to receive in-service distributions from the System
10 and shall not accrue any further credited service. If such a member
11 is reemployed by a state agency in a position which is covered by
12 the System on or after September 19, 2002, such member's monthly
13 retirement payments shall be suspended until such member retires and
14 is not reemployed by a state agency in a position which is covered
15 by the System.

16 B. Beginning July 1, 1994, members who retired or were eligible
17 to retire prior to July 1, 1980 or their surviving spouses shall
18 receive annual retirement pay, payable in equal monthly payments,
19 equal to the greater of their current retirement pay, or two and
20 one-half percent (2 1/2%) of the actual paid gross salary being
21 currently paid to a highway patrol officer, at the time each such
22 monthly retirement payment is made, multiplied by the retired
23 member's years of credited service. The provisions of this
24 subsection shall not be applicable to a member whose initial

1 employment and participation in the System occurs on or after
2 November 1, 2011.

3 C. ~~Members~~ Except with respect to members whose initial
4 employment and participation in the System occurs on or after
5 November 1, 2011, members of the System whose salary is set by
6 statute who have retired after completion of the mandatory twenty
7 (20) years of service, and those members with statutory salaries who
8 retire after reaching the mandatory twenty-year retirement, shall
9 receive an annual retirement pay, payable in equal monthly
10 installments, based upon the greater of either:

11 1. The top base pay currently paid to an active member, at the
12 time each such monthly retirement payment is made, multiplied by two
13 and one-half percent (2 1/2%) multiplied by the number of years of
14 credited service and fraction thereof for the following positions:

- 15 a. Oklahoma Highway Patrolman,
- 16 b. Communications Dispatcher,
- 17 c. Capitol Patrolman,
- 18 d. Lake Patrolman,
- 19 e. Oklahoma State Bureau of Investigation-Special Agent;
- 20 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 D. ~~Other~~ Except with respect to members whose initial
5 employment and participation in the System occurs on or after
6 November 1, 2011, other members of the System whose retirement
7 benefit is not otherwise prescribed by this section who have retired
8 after completion of the mandatory twenty (20) years of service, and
9 those members who retire after reaching the mandatory twenty-year
10 retirement, shall receive an annual retirement pay, payable in equal
11 monthly payments, based upon the greater of either:

12 1. The actual average salary currently paid to the highest
13 nonsupervisory position in the participating agency, at the time
14 each such monthly payment is made, multiplied by two and one-half
15 percent (2 1/2%), multiplied by the number of years of credited
16 service and fraction thereof for the following positions:

- 17 a. Alcoholic Beverage Laws Enforcement Commission-ABLE
18 Commission Agent III,
- 19 b. Oklahoma State Bureau of Narcotics and Dangerous Drugs
20 Control-Narcotics Agent III,
- 21 c. Oklahoma Tourism and Recreation Department-Park Ranger
22 II,
- 23 d. Oklahoma State Board of Pharmacy-Pharmacy Inspector,
- 24 e. University of Oklahoma-Police Officer,

1 f. Oklahoma State University-Police Officer; or

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

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

13 E. A member who meets the definition of disability as defined
14 in paragraph 11 of Section 2-300 of this title by direct reason of
15 the performance of the member's duties as an officer shall receive a
16 monthly benefit equal to the greater of fifty percent (50%) of final
17 average salary or two and one-half percent (2 1/2%) of final average
18 salary multiplied by the number of years of the member's credited
19 service. If such member participates in the Oklahoma Law
20 Enforcement Deferred Option Plan pursuant to Section 2-305.2 of this
21 title, then such member's disability pension provided pursuant to
22 this subsection shall be reduced to account for such member's
23 participation in the Oklahoma Law Enforcement Deferred Option Plan.

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

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

7 2. Multiplied by:

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

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

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

17 a. the salary which the member would have received
18 pursuant to statutory salary schedules in effect upon
19 the date of the disability for twenty (20) years of
20 service prior to disability. The final average salary
21 for a member who performed less than twenty (20) years
22 of service prior to disability shall be computed
23 assuming that the member was paid the highest salary
24 allowable pursuant to the law in effect at the time of

1 the member's disability based upon twenty (20) years
2 of service and with an assumption that the member was
3 eligible for any and all increases in pay based upon
4 rank during the entire period. If the salary of a
5 member is not prescribed by a specific salary schedule
6 upon the date of the member's disability, the final
7 average salary for the member shall be computed by the
8 member's actual final average salary or the highest
9 median salary amount for a member whose salary was
10 prescribed by a specific salary schedule upon the date
11 of the member's disability, whichever final average
12 salary amount would be greater, or

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

16 If such member participates in the Oklahoma Law Enforcement
17 Deferred Option Plan pursuant to Section 2-305.2 of this title, such
18 member's disability pension provided pursuant to this subsection
19 shall be adjusted as provided in Section 2-305.2 of this title to
20 account for such member's participation in the Oklahoma Law
21 Enforcement Deferred Option Plan.

22 G. A member who meets the definition of disability as defined
23 in Section 2-300 of this title and whose disability occurred prior
24 to the member's normal retirement date but after completing three

1 (3) years of vesting service and not by reason of the performance of
2 the member's duties as an officer or as a result of the member's
3 willful negligence shall receive a monthly benefit equal to two and
4 one-half percent (2 1/2%) of final average salary multiplied by the
5 number of years of the member's credited service.

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

11 I. For the purpose of determining the member's disability under
12 subsection E, F or G of this section, the member shall be required
13 by the Board to be examined by a minimum of two recognized
14 physicians selected by the Board to determine the extent of the
15 member's injury or illness. The examining physicians shall furnish
16 the Board a detailed written report of the injury or illness of the
17 examined member establishing the extent of disability and the
18 possibilities of the disabled member being returned to his or her
19 regular duties or an alternate occupation or service covered by the
20 System after a normal recuperation period. The Board shall require
21 all retired disabled members who have not attained their normal
22 retirement date to submit to a physical examination once each year
23 for a minimum of three (3) years following retirement. The Board
24 shall select a minimum of two physicians to examine the retired

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

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

15 K. At the postoffer, preemployment physical examination
16 required under paragraph 6 of Section 2-300 of this title, the
17 physician selected by the Board shall determine the extent to which
18 a new member is disabled. If a member is determined to be partially
19 disabled, the physician shall assign a percentage of disability to
20 such partial disability. If such member then becomes entitled to a
21 disability benefit under either subsection E or subsection G of this
22 section, the benefit payable shall be reduced by the percentage
23 which such member was determined to be disabled at the postoffer,
24 preemployment physical unless the Board makes a determination that

1 the initially determined percentage of disability at the
2 preemployment physical examination is unrelated to the reason for
3 the disability currently sought pursuant to subsection E or
4 subsection G of this section. Upon employment, the member shall
5 disclose to the Board any disability payments received from any
6 source. The amount of disability to be paid to any member cannot
7 exceed one hundred percent (100%) disability from all sources. The
8 provisions of this subsection shall apply only to members whose
9 effective date of membership is on or after July 1, 2000.

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

22 M. Notwithstanding any other provisions in Section 2-300
23 through 2-315 of this title, in order to be eligible to receive
24 disability benefits, a member who meets the definition of disability

1 as defined in paragraph 11 of Section 2-300 of this title shall file
2 the member's completed application for disability benefits with the
3 System before such member's date of termination from service and
4 provide such additional information that the System's rules require
5 within six (6) months of the System's receipt of such application.
6 If the member's completed application for disability benefits is not
7 filed with the System before the member's date of termination from
8 service or such additional information as is required under the
9 System's rules is not provided within six (6) months of the System's
10 receipt of such application, such member shall be eligible only for
11 such other benefits as are available to members of the System and
12 shall not be eligible to receive any disability benefits.

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

22 SECTION 4. AMENDATORY 47 O.S. 2001, Section 2-305.2, as
23 last amended by Section 11, Chapter 437, O.S.L. 2010 (47 O.S. Supp.
24 2010, Section 2-305.2), is amended to read as follows:

1 Section 2-305.2 A. In lieu of terminating employment and
2 accepting a service retirement pension pursuant to Section 2-305 of
3 this title, any member of the Oklahoma Law Enforcement Retirement
4 System, except a member of the System whose initial employment and
5 participation in the System occurs on or after November 1, 2011,
6 who has not less than twenty (20) years of participating service and
7 who is eligible to receive a service retirement pension may make an
8 irrevocable election to participate in the Oklahoma Law Enforcement
9 Deferred Option Plan and defer the receipts of benefits in
10 accordance with the provisions of this section.

11 B. For purposes of this section, participating service shall
12 include service credit recognized pursuant to paragraphs (c) and (d)
13 of Section 2-307, subsection B of Section 2-307.2, and Sections 2-
14 309.1, 2-309.2, 2-309.3, 2-309.4, 2-309.5, 2-309.6 and 2-309.7 of
15 this title but for eligibility purposes only.

16 C. The duration of participation in the Oklahoma Law
17 Enforcement Deferred Option Plan for a member shall not exceed five
18 (5) years. Participation in the Oklahoma Law Enforcement Deferred
19 Option Plan must begin the first day of a month and end on the last
20 day of the month. At the conclusion of a member's participation in
21 the Oklahoma Law Enforcement Deferred Option Plan, the member shall
22 terminate employment as a member of the Oklahoma Law Enforcement
23 Retirement System, and shall start receiving the member's accrued
24 monthly retirement benefit from the System. Such a member may

1 continue to receive in-service distributions of such member's
2 accrued monthly retirement benefit from the System if the member is
3 reemployed by a state agency only if such reemployment is in a
4 position not covered under the System.

5 D. When a member begins participation in the Oklahoma Law
6 Enforcement Deferred Option Plan, the contribution of the member
7 shall cease. The employer contributions shall continue to be paid
8 in accordance with Section 2-304 of this title. Employer
9 contributions for members who elect the Oklahoma Law Enforcement
10 Deferred Option Plan shall be credited equally to the Oklahoma Law
11 Enforcement Retirement System and to the member's Oklahoma Law
12 Enforcement Deferred Option Plan account. The monthly retirement
13 benefits that would have been payable had the member elected to
14 cease employment and receive a service retirement shall be paid into
15 the member's Oklahoma Law Enforcement Deferred Option Plan account.

16 E. 1. A member who participates in this plan shall be eligible
17 to receive cost of living increases.

18 2. A member who participates in this plan shall earn interest
19 at a rate of two percentage points below the rate of return of the
20 investment portfolio of the System, but no less than the actuarial
21 assumed interest rate as certified by the actuary in the yearly
22 evaluation report of the actuary. The interest shall be credited to
23 the individual account balance of the member on an annual basis.

24

1 F. A member in the Oklahoma Law Enforcement Deferred Option
2 Plan shall receive, at the option of the member:

3 1. A lump-sum payment from the account equal to the option
4 account balance of the member, payable to the member;

5 2. A lump-sum payment from the account equal to the option
6 account balance of the member, payable to the annuity provider which
7 shall be selected by the member as a result of the research and
8 investigation of the member; or

9 3. Any other method of payment if approved by the Board.

10 Notwithstanding any other provision contained herein to the
11 contrary, commencement of distributions under the Oklahoma Law
12 Enforcement Deferred Option Plan shall be no later than the time as
13 set forth in paragraph 7 of Section 2-300 of this title.

14 If a member meets the definition of disability as defined in
15 paragraph 11 of Section 2-300 of this title by direct reason of the
16 performance of the member's duties, the payment from the account
17 shall be an in-line-of-duty disability payment.

18 G. If the member dies during the period of participation in the
19 Oklahoma Law Enforcement Deferred Option Plan, a lump-sum payment
20 equal to the account balance of the member shall be paid to the
21 designated beneficiary as defined in paragraph 17 of Section 2-300
22 of this title, or if there is no designated beneficiary or the
23 designated beneficiary predeceases the member, to the estate of the
24 member. If such member was receiving, or eligible to receive, an

1 in-line-of-duty disability pension pursuant to subsection E or F of
2 Section 2-305 of this title at the time of death, payment of the
3 account balance shall be an in-line-of-duty disability payment.

4 H. In lieu of participating in the Oklahoma Law Enforcement
5 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of
6 this section, a member, except a member of the System whose initial
7 employment and participation in the System occurs on or after
8 November 1, 2011, may make an irrevocable election to participate in
9 the Oklahoma Law Enforcement Deferred Option Plan pursuant to this
10 subsection as follows:

11 1. For purposes of this subsection, the following definitions
12 shall apply:

13 a. "back drop date" means the date selected by the member
14 which is up to five (5) years before the member elects
15 to participate in the Oklahoma Law Enforcement
16 Deferred Option Plan, but not before the date at which
17 the member completes twenty (20) years of
18 participating service,

19 b. "termination date" means the date the member elects to
20 participate in the Oklahoma Law Enforcement Deferred
21 Option Plan pursuant to this subsection and the date
22 the member terminates employment and starts receiving
23 the member's accrued monthly retirement benefit from
24 the System. Such termination has at all times

1 included reemployment of a member by a state agency,
2 but only in a position not covered under the System,

3 c. "earlier attained participating service" means the
4 participating service earned by a member as of the
5 back drop date. Earlier attained participating
6 service cannot be reduced to less than twenty (20)
7 years of participating service, and

8 d. "deferred benefit balance" means all retirement
9 benefits that would have been paid from the back drop
10 date to the termination date, and one half (1/2) of
11 the employer contributions from the back drop date to
12 the termination date, with interest based on how the
13 benefit would have accumulated on a compound annual
14 basis as if the member had participated in the
15 Oklahoma Law Enforcement Deferred Option Plan pursuant
16 to subsections A, B, C, D and E of this section from
17 the back drop date to the termination date;

18 2. At the termination date, a member's monthly pension benefit
19 shall be determined based on the earlier attained participating
20 service and on the final average salary as of the back drop date.
21 The member's individual deferred option account shall be credited
22 with an amount equal to the deferred benefit balance; the member
23 shall terminate employment and shall start receiving the member's
24 accrued monthly retirement benefit from the System. The member

1 shall, upon application filed with the Board, be refunded from the
2 fund an amount equal to the accumulated contributions the member
3 made to the fund from the back drop date to the termination date,
4 but excluding any interest. Such termination has at all times
5 included reemployment of a member by a state agency, but only in a
6 position not covered under the System. The provisions of
7 subsections B, C, E, F and G of this section shall apply to this
8 subsection; and

9 3. A member may participate in the Oklahoma Law Enforcement
10 Deferred Option Plan pursuant to this subsection even if the member
11 has elected to participate in the Oklahoma Law Enforcement Deferred
12 Option Plan pursuant to subsections A, B, C, D, E and F of this
13 section. Such a member may select a back drop date which is up to
14 five (5) years prior to the termination date, but not before the
15 date at which the member completes twenty (20) years of
16 participating service. Such a member's participation in the
17 Oklahoma Law Enforcement Deferred Option Plan may not exceed five
18 (5) years when combined with such a member's prior period of
19 participation in the Oklahoma Law Enforcement Deferred Option Plan.
20 The provisions of subsections B, C, E, F and G of this section shall
21 apply to this subsection.

22 SECTION 5. This act shall become effective November 1, 2011.

23

24 53-1-5696 MAH 01/18/11

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January 19, 2011

Representative Leslie Osborn
Room 300

Re: RBH No. 5696

RBH No. 5696 increases the normal retirement age to 25 years of service, reduces the benefit multiplier to 2% per year of service, increases the employee contribution rate to 12% of compensation and eliminates the DROP plan. These changes are for participants who become participants of the Law Enforcement Retirement System after October 31, 2011.

RBH No. 5696 is a nonfiscal retirement bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act.

Thomas E. Cummins

Thomas E. Cummins, MAAA