

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2488 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Avery Frix _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 2488

By: Frix

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to public retirement systems;
amending 47 O.S. 2011, Section 2-300, as amended by
Section 1, Chapter 383, O.S.L. 2015 (47 O.S. Supp.
2020, Section 2-300), which relates to the Oklahoma
Law Enforcement Retirement System; modifying
definition; providing for membership by the State
Fire Marshal and deputy fire marshals; and providing
an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 2-300, as
amended by Section 1, Chapter 383, O.S.L. 2015 (47 O.S. Supp. 2020,
Section 2-300), is amended to read as follows:

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

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

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

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

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

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

6 6. a. "Member" means:

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

14 (2) law enforcement officers and criminalists of the
15 Oklahoma State Bureau of Investigation,

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

21 (4) law enforcement officers of the Oklahoma
22 Alcoholic Beverage Laws Enforcement Commission
23 designated to perform duties in the investigation
24

1 and prevention of crime and the enforcement of
2 the criminal laws of this state,

3 (5) employees of the Communications Section of the
4 Oklahoma Highway Patrol Division, radio
5 technicians, and tower technicians of the
6 Department of Public Safety, who are employed in
7 any such capacity as of June 30, 2008, and who
8 remain employed on or after July 1, 2008, until a
9 termination of service, or until a termination of
10 service with an election of a vested benefit from
11 the System, or until retirement. Effective July
12 1, 2008, a person employed for the first time as
13 an employee of the Department of Public Safety in
14 the Communications Division as an information
15 systems telecommunication technician of the
16 Department of Public Safety shall not be a member
17 of the System,

18 (6) park rangers of the Oklahoma Tourism and
19 Recreation Department and any park manager or
20 park supervisor of the Oklahoma Tourism and
21 Recreation Department who was employed in such a
22 position prior to July 1, 1985, and who elects on
23 or before September 1, 1996, to participate in
24 the System, and

1 (7) inspectors of the Board of Pharmacy, and
2 (8) the State Fire Marshal and deputy fire marshals.

3 b. Effective July 1, 1987, a member does not include a
4 "leased employee" as defined under Section 414(n) (2)
5 of the Internal Revenue Code of 1986, as amended.
6 Effective July 1, 1999, any individual who agrees with
7 the participating employer that the individual's
8 services are to be performed as a leased employee or
9 an independent contractor shall not be a member
10 regardless of any classification as a common-law
11 employee by the Internal Revenue Service or any other
12 governmental agency, or any court of competent
13 jurisdiction.

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

21 (1) all such persons shall be of good moral
22 character, free from deformities, mental or
23 physical conditions, or disease and alcohol or
24 drug addiction which would prohibit the person

1 from performing the duties of a law enforcement
 2 officer,

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

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

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

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

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

24 a. completes twenty (20) years of vesting service, or

1 b. attains sixty-two (62) years of age with ten (10)
2 years of vesting service, or

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

4 (1) the member has been transferred to this System
5 from the Oklahoma Public Employees Retirement
6 System on or after July 1, 1981, and

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

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

1 January 2001, notwithstanding any provision of the System to the
2 contrary.

3 Effective July 1, 1989, notwithstanding any other provision
4 contained herein to the contrary, in no event shall commencement of
5 distribution of the accrued retirement benefit of a member be
6 delayed beyond April 1 of the calendar year following the later of:
7 (1) the calendar year in which the member reaches seventy and one-
8 half (70 1/2) years of age; or (2) the actual retirement date of the
9 member. The preceding sentence does not allow deferral of benefit
10 commencement beyond the age of sixty-five (65).

11 Effective September 8, 2009, notwithstanding anything to the
12 contrary of the System, the System, which as a governmental plan
13 (within the meaning of Section 414(d) of the Internal Revenue Code
14 of 1986, as amended), is treated as having complied with Section
15 401(a) (9) of the Internal Revenue Code of 1986, as amended, for all
16 years to which Section 401(a) (9) of the Internal Revenue Code of
17 1986, as amended, applies to the System if the System complies with
18 a reasonable and good faith interpretation of Section 401(a) (9) of
19 the Internal Revenue Code of 1986, as amended.

20 A member who was required to join the System effective July 1,
21 1980, because of the transfer of the employing agency from the
22 Oklahoma Public Employees Retirement System to the System, and was
23 not a member of the Oklahoma Public Employees Retirement System on
24 the date of such transfer shall be allowed to receive credit for

1 prior law enforcement service rendered to this state, if the member
2 is not receiving or eligible to receive retirement credit or
3 benefits for such service in any other public retirement system,
4 upon payment to the System of the employee contribution the member
5 would have been subject to had the member been a member of the
6 System at the time, plus five percent (5%) interest. Service credit
7 received pursuant to this paragraph shall be used in determining the
8 member's retirement benefit, and shall be used in determining years
9 of service for retirement or vesting purposes;

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

14 9. "Final average salary" means the average of the highest
15 thirty (30) consecutive complete months of actual paid gross salary.
16 Gross salary shall include any amount of elective salary reduction
17 under Section 457 of the Internal Revenue Code of 1986, as amended,
18 and any amount of nonelective salary reduction under Section 414(h)
19 of the Internal Revenue Code of 1986, as amended. Effective July 1,
20 1992, gross salary shall include any amount of elective salary
21 reduction under Section 125 of the Internal Revenue Code of 1986, as
22 amended. Effective July 1, 1998, gross salary shall include any
23 amount of elective salary reduction not includable in the gross
24 income of the member under Section 132(f)(4) of the Internal Revenue

1 Code of 1986, as amended. Effective July 1, 1998, for purposes of
2 determining a member's compensation, any contribution by the member
3 to reduce his or her regular cash remuneration under Section
4 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be
5 treated as if the member did not make such an election. Only salary
6 on which required contributions have been made may be used in
7 computing the final average salary. Gross salary shall not include
8 severance pay.

9 In addition to other applicable limitations, and notwithstanding
10 any other provision to the contrary, for plan years beginning on or
11 after July 1, 2002, the annual gross salary of each "Noneligible
12 Member" taken into account under the System shall not exceed the
13 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")
14 annual salary limit. The EGTRRA annual salary limit is Two Hundred
15 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for
16 increases in the cost of living in accordance with Section
17 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The
18 annual salary limit in effect for a calendar year applies to any
19 period, not exceeding twelve (12) months, over which salary is
20 determined ("determination period") beginning in such calendar year.
21 If a determination period consists of fewer than twelve (12) months,
22 the EGTRRA salary limit will be multiplied by a fraction, the
23 numerator of which is the number of months in the determination
24 period, and the denominator of which is twelve (12). For purposes

1 of this section, a "Noneligible Member" is any member who first
2 became a member during a plan year commencing on or after July 1,
3 1996.

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

8 Effective January 1, 2008, gross salary for a plan year shall
9 also include gross salary, as described above, for services, but
10 paid by the later of two and one-half (2 1/2) months after a
11 member's severance from employment or the end of the calendar year
12 that includes the date the member terminated employment, if it is a
13 payment that, absent a severance from employment, would have been
14 paid to the member while the member continued in employment with the
15 employer.

16 Effective January 1, 2008, any payments not described above
17 shall not be considered gross salary if paid after severance from
18 employment, even if they are paid by the later of two and one-half
19 (2 1/2) months after the date of severance from employment or the
20 end of the calendar year that includes the date of severance from
21 employment, except payments to an individual who does not currently
22 perform services for the employer by reason of qualified military
23 service within the meaning of Section 414(u)(5) of the Internal
24 Revenue Code of 1986, as amended, to the extent these payments do

1 not exceed the amounts the individual would have received if the
2 individual had continued to perform services for the employer rather
3 than entering qualified military service.

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

9 Effective for years beginning after December 31, 2008, gross
10 salary shall also include differential wage payments under Section
11 414(u)(12) of the Internal Revenue Code of 1986, as amended;

12 10. "Credited service" means the period of service used to
13 determine the amount of benefits payable to a member. Credited
14 service shall consist of the period during which the member
15 participated in the System or the predecessor Plan as an active
16 employee in an eligible membership classification, plus any service
17 prior to the establishment of the predecessor Plan which was
18 credited under the predecessor Plan and for law enforcement officers
19 and criminalists of the Oklahoma State Bureau of Investigation and
20 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
21 who became members of the System on July 1, 1980, any service
22 credited under the Oklahoma Public Employees Retirement System as of
23 June 30, 1980, and for members of the Communications and Lake Patrol
24 Divisions of the Oklahoma Department of Public Safety, who became

1 members of the System on July 1, 1981, any service credited under
2 the predecessor Plan or the Oklahoma Public Employees Retirement
3 System as of June 30, 1981, and for law enforcement officers of the
4 Alcoholic Beverage Laws Enforcement Commission who became members of
5 the System on July 1, 1982, any service credited under the Oklahoma
6 Public Employees Retirement System as of June 30, 1982, and for park
7 rangers of the Oklahoma Tourism and Recreation Department who became
8 members of the System on July 1, 1985, any service credited under
9 the Oklahoma Public Employees Retirement System as of June 30, 1985,
10 and for inspectors of the Oklahoma State Board of Pharmacy who
11 became members of the System on July 1, 1986, any service credited
12 under the Oklahoma Public Employees Retirement System as of June 30,
13 1986, for law enforcement officers of the Oklahoma Capitol Patrol
14 Division of the Department of Public Safety who became members of
15 the System effective July 1, 1993, any service credited under the
16 Oklahoma Public Employees Retirement System as of June 30, 1993, and
17 for all commissioned officers in the Gunsmith/Ammunition Reloader
18 Division of the Department of Public Safety who became members of
19 the System effective July 1, 1994, any service credited under the
20 Oklahoma Public Employees Retirement System as of June 30, 1994, and
21 for the park managers or park supervisors of the Oklahoma Tourism
22 and Recreation Department who were employed in such a position prior
23 to July 1, 1985, and who elect to become members of the System
24 effective September 1, 1996, any service transferred pursuant to

1 subsection C of Section 2-309.6 of this title and any service
2 purchased pursuant to subsection B of Section 2-307.2 of this title.
3 Effective August 5, 1993, an authorized leave of absence shall
4 include a period of absence pursuant to the Family and Medical Leave
5 Act of 1993;

6 11. "Disability" means a physical or mental condition which, in
7 the judgment of the Board, totally and presumably permanently
8 prevents the member from engaging in the usual and customary duties
9 of the occupation of the member and thereafter prevents the member
10 from performing the duties of any occupation or service for which
11 the member is qualified by reason of training, education or
12 experience. A person is not under a disability when capable of
13 performing a service to the employer, regardless of occupation,
14 providing the salary of the employee is not diminished thereby;

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

18 13. "Line of duty" means any action which a member whose
19 primary function is crime control or reduction or enforcement of the
20 criminal law is obligated or authorized by rule, regulations,
21 condition of employment or service, or law to perform, including
22 those social, ceremonial, or athletic functions to which the member
23 is assigned, or for which the member is compensated, by the agency
24 the member serves;

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

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

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

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

19 SECTION 2. This act shall become effective November 1, 2021.
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