

**HOUSE OF REPRESENTATIVES - FLOOR VERSION**

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

ENGROSSED SENATE  
BILL NO. 745

By: Weaver of the Senate

and

Dobrinski of the House

An Act relating to law enforcement pension; amending 47 O.S. 2011, Sections 2-305, as last amended by Section 3, Chapter 44, O.S.L. 2018 and 2-310.2 (47 O.S. Supp. 2020, Section 2-305), which relate to retirement pay and inability to perform duties; modifying retirement provisions for members retiring due to service related disability; providing limit for retirement pay for certain persons; providing certification of specified salaries; providing guarantee of benefit amount for certain retired persons; authorizing Board of Trustees to promulgate rules; and updating statutory references.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 2-305, as last amended by Section 3, Chapter 44, O.S.L. 2018 (47 O.S. Supp. 2020, Section 2-305), is amended to read as follows:

Section 2-305. A. Except as otherwise provided in this title, at any time after attaining normal retirement date, any member of the Oklahoma Law Enforcement Retirement System upon application for unreduced retirement benefits made and approved, may retire, and,

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

24

1 C. Except as otherwise provided by this subsection, members of  
2 the System whose salary is set by statute who have retired after  
3 completion of the mandatory twenty (20) years of service, and those  
4 members with statutory salaries who retire after reaching the  
5 mandatory twenty-year retirement, ~~or those members that had to~~  
6 ~~retire due to a service-connected disability and were unable to~~  
7 ~~complete the mandatory twenty-year retirement pursuant to subsection~~  
8 ~~E of this section,~~ shall receive an annual retirement pay, payable  
9 in equal monthly installments, based upon the greater of either:

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

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

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

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

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

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

20        1. The actual average salary currently paid to the highest  
21 nonsupervisory position in the participating agency, at the time  
22 each such monthly payment is made, limited to the annual salary  
23 limit of the Economic Growth and Tax Relief Reconciliation Act of  
24 2001, as described in paragraph 9 of Section 2-300 of this title,

1 multiplied by two and one-half percent (2 1/2%), multiplied by the  
2 number of years of credited service and fraction thereof for the  
3 following positions:

- 4 a. Alcoholic Beverage Laws Enforcement Commission - ABLE  
5 Commission Agent III,
- 6 b. Oklahoma State Bureau of Narcotics and Dangerous Drugs  
7 Control - Narcotics Agent III,
- 8 c. Oklahoma Tourism and Recreation Department - Park  
9 Ranger II,
- 10 d. State Board of Pharmacy - Pharmacy Inspector,
- 11 e. University of Oklahoma - Police Officer, and
- 12 f. Oklahoma State University - Police Officer; or

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

17 No member of the System retired prior to July 1, 2002, shall  
18 receive a benefit less than the amount the member is receiving as of  
19 June 30, 2002. The participating employer must certify to the  
20 System in writing the actual average gross salary currently paid to  
21 the highest nonsupervisory position. The Board of Trustees shall  
22 promulgate such rules as are necessary to implement the provisions  
23 of this section.

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

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

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

11 2. Multiplied by the:

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

17 b. the actual number of years of credited service and  
18 fraction thereof performed by the member prior to the  
19 date of disability, if the member had performed twenty  
20 (20) or more years of credited service;

21 3. Multiplied by the greater of subparagraph a of this  
22 paragraph and division 1 of subparagraph b of this paragraph or  
23 division 2 of subparagraph b of this paragraph, as applicable:  
24

1        a. the final average salary of the member, as set forth  
2        in paragraph 9 of Section 2-300 of this title, and  
3        b. (1) the top base salary currently paid to the highest  
4        nonsupervisory position in the participating  
5        agency of the member whose first participating  
6        service with the System occurred before November  
7        1, 2012, at the time each monthly payment is  
8        made, limited to the annual salary limit of the  
9        Economic Growth and Tax Relief Reconciliation Act  
10       of 2001 described in paragraph 9 of Section 2-300  
11       of this title, for the following positions:

12       (a) Oklahoma Highway Patrolman,

13       (b) Communications Dispatcher,

14       (c) Capitol Patrolman,

15       (d) Lake Patrolman, and

16       (e) Oklahoma State Bureau of Investigation -  
17       Special Agent or Criminalist,

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

22       (2) the actual average salary currently paid to the  
23       highest nonsupervisory position in the  
24       participating agency of the member whose first

1 participating service with the System occurred  
2 before May 24, 2013, at the time each monthly  
3 payment is made, limited to the annual salary  
4 limit of the Economic Growth and Tax Relief  
5 Reconciliation Act of 2001, described in  
6 paragraph 9 of Section 2-300 of this title, for  
7 the following positions:

8 (a) Alcoholic Beverage Laws Enforcement (ABLE)  
9 Commission - ABLE Commission Agent III,

10 (b) Oklahoma State Bureau of Narcotics and  
11 Dangerous Drugs Control - Narcotics Agent  
12 III,

13 (c) Oklahoma Tourism and Recreation Department -  
14 Park Ranger II,

15 (d) State Board of Pharmacy - Pharmacy  
16 Inspector,

17 (e) University of Oklahoma - Police Officer, and

18 (f) Oklahoma State University - Police Officer,

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

23 4. No member of the System receiving benefits prescribed by  
24 this subsection who retired prior to July 1, 2002, shall receive a

1 benefit of less than the amount the member was receiving as of June  
2 30, 2002;

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

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

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

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

16 2. Multiplied by:

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

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

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

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

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

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

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

20 I. For the purpose of determining the member's disability under  
21 subsection E, F or G of this section, the member shall be required  
22 by the Board to be examined by a minimum of two recognized  
23 physicians selected by the Board to determine the extent of the  
24 member's injury or illness. The examining physicians shall furnish

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

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

1 K. At the postoffer, preemployment physical examination  
2 required under paragraph 6 of Section 2-300 of this title, the  
3 physician selected by the Board shall determine the extent to which  
4 a new member is disabled. If a member is determined to be partially  
5 disabled, the physician shall assign a percentage of disability to  
6 such partial disability. If such member then becomes entitled to a  
7 disability benefit under either subsection E or subsection G of this  
8 section, the benefit payable shall be reduced by the percentage  
9 which such member was determined to be disabled at the postoffer,  
10 preemployment physical unless the Board makes a determination that  
11 the initially determined percentage of disability at the  
12 preemployment physical examination is unrelated to the reason for  
13 the disability currently sought pursuant to subsection E or  
14 subsection G of this section. Upon employment, the member shall  
15 disclose to the Board any disability payments received from any  
16 source. The amount of disability to be paid to any member cannot  
17 exceed one hundred percent (100%) disability from all sources. The  
18 provisions of this subsection shall apply only to members whose  
19 effective date of membership is on or after July 1, 2000.

20 L. In addition to the pension provided for under subsection F  
21 of this section, if ~~said~~ the member has one or more children under  
22 the age of eighteen (18) years or under the age of twenty-two (22)  
23 years if the child is enrolled full time in and is regularly  
24 attending a public or private school or any institution of higher

1 education, Four Hundred Dollars (\$400.00) a month shall be paid from  
2 ~~said~~ the Fund for the support of each surviving child to the member  
3 or person having the care and custody of such children until each  
4 child reaches the age of eighteen (18) years or reaches the age of  
5 twenty-two (22) years if the child is enrolled full time in and is  
6 regularly attending a public or private school or any institution of  
7 higher education.

8 M. Notwithstanding any other provisions in Section 2-300  
9 through 2-315 of this title, in order to be eligible to receive  
10 disability benefits, a member who meets the definition of disability  
11 as defined in paragraph 11 of Section 2-300 of this title shall file  
12 the member's completed application for disability benefits with the  
13 System before such member's date of termination from service and  
14 provide such additional information that the System's rules require  
15 within six (6) months of the System's receipt of such application.  
16 If the member's completed application for disability benefits is not  
17 filed with the System before the member's date of termination from  
18 service or such additional information as is required under the  
19 System's rules is not provided within six (6) months of the System's  
20 receipt of such application, such member shall be eligible only for  
21 such other benefits as are available to members of the System and  
22 shall not be eligible to receive any disability benefits. For good  
23 cause shown, the Board of Trustees may waive the requirement that  
24 the disability application be filed before the member's date of

1 termination from service. In no event shall a member be eligible to  
2 receive any disability benefit if the member's completed application  
3 is filed more than six (6) months after the member's date of  
4 termination from service.

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

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

16 Section 2-310.2. Whenever any member of the Oklahoma Law  
17 Enforcement Retirement System currently working in a position  
18 identified by paragraph 6 of Section 2-300 of ~~Title 47 of the~~  
19 ~~Oklahoma Statutes~~ this title who is enrolled in the Oklahoma Law  
20 Enforcement Retirement System is unable to perform the member's  
21 duties because of sickness or temporary disability caused or  
22 sustained while in the discharge of the member's duty as such  
23 member, notwithstanding the provisions of Section 840-2.21 of Title  
24 74 of the Oklahoma Statutes or the provisions of ~~Sections 11 and 12~~

1 ~~of Title 85~~ Title 85A of the Oklahoma Statutes, the member may be  
2 placed on administrative leave with pay by the employing agency for  
3 a period of ninety (90) days with the employing agency having the  
4 option of extending the leave period for up to an additional ninety  
5 (90) days, not to exceed a total of one hundred eighty (180) days.  
6 The member's salary and benefits shall continue to be paid by the  
7 employing agency without any decrease or disruption of ~~said~~ the  
8 salary and benefits. If the recovery period is longer than one  
9 hundred eighty (180) days, the member shall use sick leave, annual  
10 leave or other authorized leave. Should a member receiving a salary  
11 under this section be eligible to receive and should the salary of  
12 the member under this section exceed any temporary disability  
13 benefit paid to the member under Section 1 et seq. of Title ~~85~~ 85A  
14 of the Oklahoma Statutes, the member shall transfer such temporary  
15 disability benefits under Section 1 et seq. of Title ~~85~~ 85A of the  
16 Oklahoma Statutes to the employing agency while the member is sick  
17 or temporarily disabled.

18

19 COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND  
20 PENSIONS, dated 04/05/2021 - DO PASS.

21

22

23

24

25