

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 519

By: Brecheen

AS INTRODUCED

An Act relating to Oklahoma Law Enforcement Retirement System; amending 47 O.S. 2011, Section 2-305, as last amended by Section 1, Chapter 318, O.S.L. 2013 (47 O.S. Supp. 2016, Section 2-305), which relates to retirement pay and disability benefits; authorizing annual retirement pay for certain members with a service-connected disability; and prohibiting application of certain provisions of this act to certain people.

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 1, Chapter 318, O.S.L. 2013 (47 O.S. Supp. 2016, Section 2-305), is amended to read as follows:

Section 2-305. A. Except as otherwise provided in this title, at any time after attaining normal retirement date, any member of the Oklahoma Law Enforcement Retirement System upon application for unreduced retirement benefits made and approved, may retire, and, during the remainder of the member's lifetime, receive annual retirement pay, payable in equal monthly payments, equal to two and one-half percent (2 1/2%) of the final average salary times years of

1 credited service. If such retired member is reemployed by a state
2 agency in a position which is not covered by the System, such
3 retired member shall continue to receive in-service distributions
4 from the System. Prior to September 19, 2002, if such retired
5 member was reemployed by a state agency in a position which is
6 covered by the System, such member shall continue to receive in-
7 service distributions from the System and shall not accrue any
8 further credited service. If such a member is reemployed by a state
9 agency in a position which is covered by the System on or after
10 September 19, 2002, such member's monthly retirement payments shall
11 be suspended until such member retires and is not reemployed by a
12 state agency in a position which is covered by the System.

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

21 C. Except as otherwise provided by this subsection, members of
22 the System whose salary is set by statute who have retired after
23 completion of the mandatory twenty (20) years of service, and those
24 members with statutory salaries who retire after reaching the

1 mandatory twenty-year retirement, and beginning January 1, 2015,
2 those members who have retired or retire with a service-connected
3 disability pursuant to subsection E of this section, shall receive
4 an annual retirement pay, payable in equal monthly installments,
5 based upon the greater of either:

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

- 10 a. Oklahoma Highway Patrolman,
- 11 b. Communications Dispatcher,
- 12 c. Capitol Patrolman,
- 13 d. Lake Patrolman,
- 14 e. Oklahoma State Bureau of Investigation - Special Agent
15 or Criminalist; or

16 2. The member's final average salary as set forth in paragraph
17 9 of Section 2-300 of this title, multiplied by two and one-half
18 percent (2 1/2%), and multiplied by the number of years of credited
19 service and fraction thereof.

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

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 November 1, 2012.

4 D. Other members of the System whose retirement benefit is not
5 otherwise prescribed by this section who have retired after
6 completion of the mandatory twenty (20) years of service, and those
7 members who retire after reaching the mandatory twenty-year
8 retirement, and beginning January 1, 2015, those members who have
9 retired or retire with a service-connected disability pursuant to
10 subsection E of this section, shall receive an annual retirement
11 pay, payable in equal monthly payments, based upon the greater of
12 either:

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

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

1 e. University of Oklahoma - Police Officer,

2 f. Oklahoma State University - Police Officer; or

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

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

14 The provisions of paragraph 1 of this subsection shall not be
15 applicable to any member whose first participating service with the
16 System occurs on or after ~~the effective date of this act~~ May 24,
17 2013.

18 E. A member who meets the definition of disability as defined
19 in paragraph 11 of Section 2-300 of this title by direct reason of
20 the performance of the member's duties as an officer shall receive a
21 monthly benefit equal to the greater of fifty percent (50%) of final
22 average salary or two and one-half percent (2 1/2%) of final average
23 salary multiplied by the number of years of the member's credited
24 service. If such member participates in the Oklahoma Law

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

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

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

11 2. Multiplied by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 N. If the requirements of Section 2-305.1C of this title are
19 satisfied, a member who, by reason of disability or attainment of
20 normal retirement date or age, is separated from service as a public
21 safety officer with the member's participating employer may elect to
22 have payment made directly to the provider for qualified health
23 insurance premiums by deduction from his or her monthly disability
24 benefit or monthly retirement payment, after December 31, 2006, in

1 accordance with Section 402(1) of the Internal Revenue Code of 1986,
2 as amended.

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