

THE HOUSE OF REPRESENTATIVES
Tuesday, March 6, 2007

House Bill No. 1737

HOUSE BILL NO. 1737 - By: TIBBS of the House and CRAIN of the Senate.

An Act relating to counties and county officers; amending 19 O.S. 2001, Section 956, which relates to the establishment of certain retirement plans; modifying provisions related to continued employment; providing an effective date; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 19 O.S. 2001, Section 956, is amended to read as
2 follows:

3 Section 956. No county employee shall be eligible for retirement benefits under this
4 act until such employee:

5 1. Has attained the age of sixty-two (62) years and shall have served for a period of
6 at least fifteen (15) years with said county, and the last two (2) years of such service shall
7 have been consecutive immediately preceding such retirement; or

8 2. Has attained the age of fifty-five (55) years and shall have served for a period of
9 at least thirty (30) years with said county; or

10 3. Has attained the age at which the sum of the employee's age and number of
11 years of service with the county total eighty (80).

12 To be eligible for retirement benefits the employee's service with the county shall have
13 ceased; however, a retired employee shall not be required to reduce or suspend the

1 retirement benefit based upon employment with the county after retirement except as
2 may be provided specifically in the resolution of the applicable board of county
3 commissioners establishing the plan or an amendment to the plan. Provided, that any
4 county employee who shall have completed fifteen (15) years of service as such county
5 employee, the last two (2) years of which shall have been consecutive, and who, at the
6 time of completing such fifteen (15) years of service shall not have reached the age of
7 sixty-two (62) years, may then elect to retire, such retirement to become effective and all
8 retirement benefits to begin when such county employee shall have attained the age of
9 sixty-two (62) years, provided that such election shall be in writing upon such form as the
10 board of trustees shall direct, and such election shall be signed by such employee and
11 filed with the board of trustees, and any funds paid into the retirement system by such
12 employee may not thereafter be withdrawn by such employee. Provided, that when
13 approved by the board of trustees of the county retirement system and the board of
14 county commissioners of any county which has provided for a retirement fund and
15 system as authorized under the provisions of Section 951 of this title, the board of
16 trustees may lower the mandatory fifteen-year requirement to not less than five (5) years
17 by a resolution if the following has occurred:

18 1. Prior to such action, an actuarial report on the system shall be made by an
19 independent professional actuary qualified as an "Enrolled actuary" as defined by the
20 Employee Retirement Income Security Act (ERISA) of 1974, which report shall
21 determine and declare whether the reduction of the mandatory service requirement
22 would result in any additional unfunded or accrued liabilities and, if so, the amount

1 required to make the retirement system actuarially sound expressed in dollars and in
2 percent of the gross payroll.

3 2. Such report shall be filed with the board of trustees and with the board of county
4 commissioners and notice of the receipt and filing of such report be given by the board of
5 county commissioners by publishing notice thereof in a newspaper of general circulation
6 in the county. Such report shall be a public document subject to examination by any
7 interested person. Any member of the retirement system or any citizen of the county
8 may, within thirty (30) days from the date of such publication, file a petition in the
9 district court of the county in which the retirement system is located to challenge the
10 validity and accuracy of the actuarial report or any other action taken in connection
11 therewith, and the court is hereby vested with jurisdiction to receive evidence and enter
12 a judgment affirming, modifying or rejecting the actuarial report or any funding
13 provisions, and such report shall be conformed in accordance with any final judgment.
14 The costs, including attorney fees, if any, of such action shall be assessed by the court as
15 it may deem equitable irrespective of the form of the judgment.

16 3. If the final report determines that additional funding shall be required to
17 implement any reduction of the mandatory service requirement, then and in that event
18 affirmative action by the board of county commissioners, approved by the board of
19 trustees, providing for the funding of any such changed benefits in an amount necessary
20 to make said system actuarially sound upon the implementation of such change shall be
21 established at or prior to the effective date of such reduction in the mandatory service
22 requirement.

1 4. If the report reveals no additional funding requirement, then the board of county
2 commissioners with the approval of the board of trustees may lower the mandatory
3 fifteen-year service requirement as provided in this section without a corresponding or
4 concurrent funding resolution.

5 5. It is further provided that if the mandatory service credit is reduced to a period
6 of time less than fifteen (15) years, then and in that event the retirement benefits shall
7 be correspondingly reduced by at least an amount equal to six and two-thirds percent (6
8 2/3%) from that which would have been earned for fifteen (15) years' service multiplied
9 by the number of years of reduction in the mandatory service except for those retirees
10 who have eight (8) years' service and are entitled to disability retirement. The
11 entitlement to disability retirement and the amount thereof shall not be affected by this
12 paragraph.

13 6. No person shall be entitled to receive the benefits of a reduction in the
14 mandatory service requirement who at the time of such reduction is not then an
15 employee of the county, has been continuously employed by the county and a member of
16 the county retirement system for the twenty-four (24) months immediately preceding the
17 reduction in the mandatory service requirement or shall have been an employee with
18 twenty-four (24) months immediately preceding the election by such employee to receive
19 the benefit of the reduced mandatory service requirement.

20 Provided further, that, for the purposes of this act and the eligibility of employees to
21 participate therein, employees of levee districts shall be considered county employees.

22 Retirement benefits, disability benefits and benefits paid to the surviving spouse shall be

1 calculated on the average of the income of any three (3) years which shall be the years of
2 highest income for said employee during participation in said retirement system.

3 Any employee of the county covered by this act who shall have completed eight (8)
4 years of employment with said county and who, by reason of disability resulting from the
5 performance of his duties as such employee of said county, shall become disabled to such
6 an extent as to be unable to perform his duties as an employee shall be entitled to
7 disability retirement and to such benefits as the board of trustees shall determine;
8 provided, however, that the board of trustees shall find that said disability is total and
9 permanent, and resulted from the performance of his duty as such employee of the
10 county.

11 Any person who has been a regular county employee for at least one (1) year
12 immediately preceding the time he is required, by Act of Congress of the United States
13 and/or by order of the President of the United States, or volunteers to leave the
14 employment of the county to enter the military service of the United States government
15 shall receive credit, for the purposes of this act, for all actual time so served in full-time
16 military service, but not to exceed a total of four (4) years in all; provided, however, that
17 to be eligible to receive such credit, the employee shall not withdraw funds previously
18 contributed, as otherwise permitted by the provisions of this act; provided, further, that
19 neither the employee nor the county shall be required to make further contribution to the
20 retirement fund during the period of military service; and, provided, further, that the
21 credit time allowed, hereby, shall not be considered in lieu of the two (2) years'
22 consecutive employment required by this section, as a prerequisite to receiving

1 retirement benefits hereunder. Provided further, that if any county employee who shall
2 have completed at least fifteen (15) years of service to any county covered by this act and
3 who has not yet reached the age of retirement shall die, then, and in such event, the
4 surviving spouse of said county employee shall receive retirement benefits in the amount
5 of sixty-six and two-thirds percent (66 2/3%) of whatever benefits would otherwise be
6 received by said county employee under this act at the age of sixty-two (62) years, such
7 retirement benefits to the surviving spouse to begin on the date said deceased county
8 employee would have reached the age of sixty-two (62) years.

9 Provided further, that if any county employee receiving or eligible to receive
10 retirement benefits pursuant to the provisions of this act shall die, then, and in such
11 event, the surviving spouse of said person shall receive retirement benefits in the amount
12 of sixty-six and two-thirds percent (66 2/3%) of whatever benefits the deceased was
13 receiving or was entitled to receive for the remainder of the natural life of said surviving
14 spouse. This provision shall apply to anyone who has qualified for retirement, even
15 though they may not have retired or are deceased. Said provision also shall include any
16 employees who have retired after January 1, 1970, and later shall become deceased, then
17 in such event the surviving spouse shall receive sixty-six and two-thirds percent (66
18 2/3%). This shall not apply to persons who have retired prior to January 1, 1970, or their
19 spouses.

20 Provided further, that the board of trustees and the board of county commissioners
21 may elect to amend the surviving spouse benefit provision to increase the surviving
22 spouse retirement benefit to as much as one hundred percent (100%).

1 Provided further, that the board of trustees and the board of county commissioners
2 may elect to amend the benefit provisions to allow any vested employee who is otherwise
3 not eligible to retire because such employee has not satisfied any of the age requirements
4 the option of retiring as early as age fifty-five (55). However, such employee shall have
5 met the minimum service requirements approved by the board of trustees of the county
6 retirement system and the board of county commissioners. If any employee elects such
7 an option, the employee shall receive an actuarially reduced benefit.

8 SECTION 2. This act shall become effective July 1, 2007.

9 SECTION 3. It being immediately necessary for the preservation of the public
10 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
11 this act shall take effect and be in full force from and after its passage and approval.

12 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
13 FINANCIAL SERVICES, dated 03-05-07 - DO PASS, As Coauthored.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.