

05/16/2011 12:55:26 PM

HOUSE OF REPRESENTATIVES  
CONFERENCE COMMITTEE REPORT

Mr. President:  
Mr. Speaker:

The Conference Committee, to which was referred

**HB2032**

By: Sullivan of the House and Newberry of the Senate

Title: Counties and county officers; retirement systems of county employees; modifying population requirements; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendments and that the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

**HOUSE CONFEREES**

Christian \_\_\_\_\_

Condit \_\_\_\_\_

Glenn 

Grau 

Hardin 

Johnson \_\_\_\_\_

Joyner 

Liebmann 

Lockhart \_\_\_\_\_

Martin (Scott) 

Shannon 

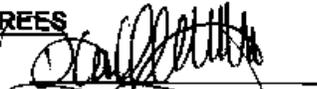
Shoemaker \_\_\_\_\_

Wright 

HB2032 CCR A

**SENATE CONFEREES**

Newberry



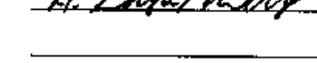
Brown



Treat



Marlatt



Bass

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Eason McIntyre

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House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 CONFERENCE COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 HOUSE BILL NO. 2032

By: Sullivan of the House

and

Newberry of the Senate

7  
8 CONFERENCE COMMITTEE SUBSTITUTE

9  
10 An Act relating to counties and county officers;  
11 amending 19 O.S. 2001, Sections 953, 953.1, 953.1A  
12 and 956.2, as amended by Section 1, Chapter 94,  
13 O.S.L. 2005 (19 O.S. Supp. 2010, Section 956.2),  
14 which relate to retirement systems of county  
15 employees; modifying population requirements; and  
16 declaring an emergency.

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

18 SECTION 1. AMENDATORY 19 O.S. 2001, Section 953, is  
19 amended to read as follows:

20 Section 953. A. Every county establishing a retirement fund  
21 and system and having a population in excess of ~~five hundred ninety~~  
22 ~~thousand (590,000)~~ six hundred seventy-five thousand (675,000)  
23 according to the latest Federal Decennial Census is hereby  
24 authorized to contribute to such fund and to pay to the treasurer of  
such fund for the use and benefit of the persons eligible for  
retirement benefits such amounts as the board of trustees may

1 authorize by resolution not exceeding the limitation as provided in  
2 Section 954 of this title. Money on hand in this fund shall not be  
3 available for any other purpose and shall not be used for any  
4 purpose other than for retirement benefits to eligible persons  
5 except as provided in Section 952.2 of this title; provided that  
6 should any county employee who has contributed to such retirement  
7 fund cease, either by resignation, discharge or failure of  
8 re-election, to be a county employee at any time before such  
9 employee becomes eligible for retirement, such employee shall be  
10 entitled to receive from the retirement fund an amount, without  
11 interest, equal to the sum deducted from his or her salary and  
12 credited to the retirement fund, and the board of trustees is hereby  
13 authorized and required, on written demand of such employee, to  
14 return to such employee, without interest, all funds contributed by  
15 such employee; and, provided further, that should any county  
16 employee whose services as such employee shall have ceased prior to  
17 such employee being eligible for retirement, and should such  
18 employee have withdrawn his or her contribution to the retirement  
19 fund as provided herein, such employee shall not thereafter become  
20 eligible for retirement unless he or she shall have paid into the  
21 pension fund all money previously withdrawn therefrom by such  
22 employee by September 1, 1984, for those employees that again became  
23 county employees prior to July 1, 1984, and within sixty (60) days  
24 after an employee again becomes a county employee for those

1 employees that again become county employees on or after July 1,  
2 1984.

3 B. Every county establishing a retirement fund and system and  
4 not having a population in excess of ~~five hundred ninety thousand~~  
5 ~~(590,000)~~ six hundred seventy-five thousand (675,000) according to  
6 the latest Federal Decennial Census is hereby authorized to  
7 contribute to such fund and to pay to the treasurer of such fund for  
8 the use and benefit of the persons eligible for retirement benefits  
9 such amounts as the board of trustees may authorize by resolution  
10 not exceeding the limitation as provided in Section 954 of this  
11 title. Money on hand in this fund shall not be available for any  
12 other purpose and shall not be used for any purpose other than for  
13 retirement benefits to eligible persons except as provided in  
14 Section 952.2 of this title; provided that should any county  
15 employee who has contributed to such retirement fund cease, either  
16 by resignation, discharge or failure of re-election, to be a county  
17 employee at any time before such employee becomes eligible for  
18 retirement, such employee shall be entitled to receive from the  
19 retirement fund an amount, without interest, equal to the sum  
20 deducted from his or her salary and credited to the retirement fund,  
21 and the board of trustees is hereby authorized and required, on  
22 written demand of such employee, to return to such employee, without  
23 interest, all funds contributed by such employee; and, provided  
24 further, that should any county employee whose services as such

1 employee shall have ceased prior to such employee being eligible for  
2 retirement, and should such employee have withdrawn his or her  
3 contribution to the retirement fund as provided herein, such an  
4 employee, otherwise meeting the eligibility requirements for  
5 membership, who has withdrawn his or her accumulated contributions  
6 at any period of time, and who wishes to reinstate the creditable  
7 service covered by such contributions, shall pay the system the full  
8 amount of contributions previously withdrawn with interest thereon  
9 at the annual percentage rate of ten percent (10%) from the date  
10 withdrawn. The withdrawn contributions plus interest must be repaid  
11 by August 31, 1994 to reinstate such creditable service. Any  
12 increase in benefits resulting from reinstatement of creditable  
13 service under this subsection shall be prospective from the date of  
14 repayment. Nothing in this subsection shall apply to alter any  
15 amount of benefits paid or due prior to repayment of the withdrawn  
16 contributions.

17 SECTION 2. AMENDATORY 19 O.S. 2001, Section 953.1, is  
18 amended to read as follows:

19 Section 953.1 A. The board of trustees shall discharge their  
20 duties with respect to the retirement system solely in the interest  
21 of the participants and beneficiaries and:

22 1. For the exclusive purpose of:

23 a. providing benefits to participants and their  
24 beneficiaries, and

1           b.    defraying reasonable expenses of administering the  
2                   retirement system;

3           2.    With the care, skill, prudence, and diligence under the  
4 circumstances then prevailing that a prudent person acting in a like  
5 capacity and familiar with such matters would use in the conduct of  
6 an enterprise of a like character and with like aims;

7           3.    By diversifying the investments of the retirement system so  
8 as to minimize the risk of large losses, unless under the  
9 circumstances it is clearly prudent not to do so; and

10          4.    In accordance with the laws, documents and instruments  
11 governing the retirement system.

12          B.    The monies of the retirement system shall be invested only  
13 in assets eligible for the investment of funds of legal reserve life  
14 insurance companies in this state as provided for in Sections 1602  
15 through 1611, 1613 through 1620, and 1622 through 1624 of Title 36  
16 of the Oklahoma Statutes. The term "admitted assets" shall mean the  
17 amount of the monies of the retirement system and the provisions  
18 relating to limitation of investments as a percentage of surplus and  
19 loans to policyholders shall be inapplicable with respect to  
20 investment of the monies of the retirement system. The monies of  
21 the retirement system may be invested in certificates of  
22 indebtedness or such other enforceable evidences of obligation as  
23 may be utilized in the rights-of-way acquisitions by the ~~Oklahoma~~  
24 Department of Transportation. The monies of the retirement system

1 may also be invested in bonds secured by first mortgages, pass-  
2 through securities and insured participation certificates  
3 representing interests in first mortgages or insured mortgage pass-  
4 through certificates on one-to four-family residences located within  
5 this state.

6 C. The board of trustees may procure insurance indemnifying the  
7 members of the board of trustees from personal loss or  
8 accountability from liability resulting from a member's action or  
9 inaction as a member of the board of trustees.

10 D. The board of trustees may establish an investment committee.  
11 The investment committee shall be composed of not more than five (5)  
12 members of the board of trustees appointed by the chair of the board  
13 of trustees. The committee shall make recommendations to the full  
14 board of trustees on all matters related to the choice of custodians  
15 and managers of the assets of the retirement system, on the  
16 establishment of investment and fund management guidelines, and in  
17 planning future investment policy. The committee shall have no  
18 authority to act on behalf of the board of trustees in any  
19 circumstances whatsoever. No recommendation of the committee shall  
20 have effect as an action of the board of trustees nor take effect  
21 without the approval of the board of trustees as provided by law.

22 E. The board of trustees may retain qualified investment  
23 managers to provide for the investment of the monies of the  
24 retirement system. The investment managers shall be chosen by a

1 solicitation of proposals on a competitive bid basis pursuant to  
2 standards set by the board of trustees. Subject to the overall  
3 investment guidelines set by the board of trustees, the investment  
4 managers shall have full discretion in the management of those  
5 monies of the retirement system allocated to the investment  
6 managers. The board of trustees shall manage those monies not  
7 specifically allocated to the investment managers. The monies of  
8 the retirement system allocated to the investment managers shall be  
9 actively managed by the investment managers, which may include  
10 selling investments and realizing losses if such action is  
11 considered advantageous to longer term return maximization. Because  
12 of the total return objective, no distinction shall be made for  
13 management and performance evaluation purposes between realized and  
14 unrealized capital gains and losses.

15 F. Funds and revenues for investment by the investment managers  
16 or the board of trustees may be placed with a custodian selected by  
17 the board of trustees. The custodian shall be a bank or trust  
18 company offering pension fund master trustee and master custodial  
19 services. The custodian shall be chosen by a solicitation of  
20 proposals on a competitive bid basis pursuant to standards set by  
21 the board of trustees. In compliance with the investment policy  
22 guidelines of the board of trustees, the custodian bank or trust  
23 company shall be contractually responsible for ensuring that all  
24 monies of the retirement system are invested in income-producing

1 investment vehicles at all times. If a custodian bank or trust  
2 company has not received direction from the investment managers of  
3 the retirement system as to the investment of the monies of the  
4 retirement system in specific investment vehicles, the custodian  
5 bank or trust company shall be contractually responsible to the  
6 board of trustees for investing the monies in appropriately  
7 collateralized short-term interest-bearing investment vehicles.

8 G. By November 1, 1989, and prior to August 1 of each year  
9 thereafter, the board of trustees shall develop a written investment  
10 plan for the retirement system.

11 H. After July 1 and before October 1 of each year, the board of  
12 trustees shall publish widely an annual report presented in simple  
13 and easily understood language. The report shall be submitted to  
14 the board of county commissioners, and to the individual members of  
15 the retirement system. The annual report shall cover the operation  
16 of the retirement system during the past fiscal year, including  
17 income, disbursements, and the financial condition of the retirement  
18 system at the end of the fiscal year. The annual report shall also  
19 include several relevant measures of investment value, including  
20 acquisition cost and current fair market value with appropriate  
21 summaries of total holdings and returns. The report shall contain  
22 combined and individual rate of returns of the investment managers  
23 by category of investment, over periods of time as well as a summary  
24 of the results of the most recent actuarial valuation to include

1 total assets, total liabilities, unfunded liability or over-funded  
2 status, contributions and any other information deemed relevant by  
3 the board of trustees. The annual report shall be written in such a  
4 manner as to permit a readily understandable means for analyzing the  
5 financial condition and performance of the retirement system for the  
6 fiscal year.

7 I. The requirements of this section shall apply to retirement  
8 funds and systems in counties which have a population in excess of  
9 ~~five hundred ninety thousand (590,000)~~ six hundred seventy-five  
10 thousand (675,000) according to the latest Federal Decennial Census.

11 SECTION 3. AMENDATORY 19 O.S. 2001, Section 953.1A, is  
12 amended to read as follows:

13 Section 953.1A A. The board of trustees shall discharge their  
14 duties with respect to the retirement system solely in the interest  
15 of the participants and beneficiaries and:

16 1. For the exclusive purpose of:

17 a. providing benefits to participants and their  
18 beneficiaries, and

19 b. defraying reasonable expenses of administering the  
20 retirement system;

21 2. With the care, skill, prudence, and diligence under the  
22 circumstances then prevailing that a prudent person acting in a like  
23 capacity and familiar with such matters would use in the conduct of  
24 an enterprise of a like character and with like aims;

1           3. By diversifying the investments of the retirement system so  
2 as to minimize the risk of large losses, unless under the  
3 circumstances it is clearly prudent not to do so; and

4           4. In accordance with the laws, documents and instruments  
5 governing the retirement system.

6           B. The board of trustees may procure insurance indemnifying the  
7 members of the board of trustees from personal loss or  
8 accountability from liability resulting from a member's action or  
9 inaction as a member of the board of trustees.

10           C. The board of trustees may establish an investment committee.  
11 The investment committee shall be composed of not more than five (5)  
12 members of the board of trustees appointed by the chair of the board  
13 of trustees. The committee shall make recommendations to the full  
14 board of trustees on all matters related to the choice of custodians  
15 and managers of the assets of the retirement system, on the  
16 establishment of investment and fund management guidelines, and in  
17 planning future investment policy. The committee shall have no  
18 authority to act on behalf of the board of trustees in any  
19 circumstances whatsoever. No recommendation of the committee shall  
20 have effect as an action of the board of trustees nor take effect  
21 without the approval of the board of trustees as provided by law.

22           D. The board of trustees shall retain qualified investment  
23 managers to provide for the investment of the monies of the  
24 retirement system. The investment managers shall be chosen by a

1 solicitation of proposals on a competitive bid basis pursuant to  
2 standards set by the board of trustees. Subject to the overall  
3 investment guidelines set by the board of trustees, the investment  
4 managers shall have full discretion in the management of those  
5 monies of the retirement system allocated to the investment  
6 managers. The board of trustees shall manage those monies not  
7 specifically allocated to the investment managers. The monies of  
8 the retirement system allocated to the investment managers shall be  
9 actively managed by the investment managers, which may include  
10 selling investments and realizing losses if such action is  
11 considered advantageous to longer term return maximization. Because  
12 of the total return objective, no distinction shall be made for  
13 management and performance evaluation purposes between realized and  
14 unrealized capital gains and losses.

15 E. Funds and revenues for investment by the investment managers  
16 or the board of trustees shall be placed with a custodian selected  
17 by the board of trustees. The custodian shall be a bank or trust  
18 company offering pension fund master trustee and master custodial  
19 services. The custodian shall be chosen by a solicitation of  
20 proposals on a competitive bid basis pursuant to standards set by  
21 the board of trustees. In compliance with the investment policy  
22 guidelines of the board of trustees, the custodian bank or trust  
23 company shall be contractually responsible for ensuring that all  
24 monies of the retirement system are invested in income-producing

1 investment vehicles at all times. If a custodian bank or trust  
2 company has not received direction from the investment managers of  
3 the retirement system as to the investment of the monies of the  
4 retirement system in specific investment vehicles, the custodian  
5 bank or trust company shall be contractually responsible to the  
6 board of trustees for investing the monies in appropriately  
7 collateralized short-term interest-bearing investment vehicles.

8 F. Prior to August 1 of each year, the board of trustees shall  
9 develop a written investment plan for the retirement system.

10 G. The board of trustees shall compile a quarterly financial  
11 report of all the funds of the system on a fiscal year basis. The  
12 report shall include several relevant measures of investment value,  
13 including acquisition cost and current fair market value with  
14 appropriate summaries of total holdings and returns. The report  
15 shall contain combined and individual rate of returns of the  
16 investment managers by category of investment, over periods of time.  
17 The report shall be distributed to the board of county  
18 commissioners.

19 H. After July 1 and before December 1 of each year, the board  
20 of trustees shall publish widely an annual report presented in  
21 simple and easily understood language. The report shall be  
22 submitted to the board of county commissioners, and to the  
23 individual members of the retirement system. The annual report  
24 shall cover the operation of the retirement system during the past

1 fiscal year, including income, disbursements, and the financial  
2 condition of the retirement system at the end of the fiscal year.  
3 The annual report shall also include several relevant measures of  
4 investment value, including acquisition cost and current fair market  
5 value with appropriate summaries of total holdings and returns. The  
6 report shall contain combined and individual rate of returns of the  
7 investment managers by category of investment, over periods of time  
8 as well as a summary of the results of the most recent actuarial  
9 valuation to include total assets, total liabilities, unfunded  
10 liability or over-funded status, contributions and any other  
11 information deemed relevant by the board of trustees. The annual  
12 report shall be written in such a manner as to permit a readily  
13 understandable means for analyzing the financial condition and  
14 performance of the retirement system for the fiscal year.

15 I. The requirements of this section shall apply to retirement  
16 funds and systems in counties which do not have a population in  
17 excess of ~~five hundred ninety thousand (590,000)~~ six hundred  
18 seventy-five thousand (675,000) according to the latest Federal  
19 Decennial Census.

20 SECTION 4. AMENDATORY 19 O.S. 2001, Section 956.2, as  
21 amended by Section 1, Chapter 94, O.S.L. 2005 (19 O.S. Supp. 2010,  
22 Section 956.2), is amended to read as follows:

23 Section 956.2 A. In lieu of the retirement benefits specified  
24 in Section 956 of this title, upon approval by the board of trustees

1 and the board of county commissioners, a county authorized to  
2 provide a retirement system pursuant to the provisions of Section  
3 951 et seq. of this title, with a population in excess of ~~five~~  
4 ~~hundred ninety thousand (590,000)~~ six hundred seventy-five thousand  
5 (675,000), may provide for retirement benefits for the retirement  
6 system based upon the contributions of the individual employee, if  
7 any, contributions of the county for the benefit of such employee,  
8 if any, together with earnings accruals thereon for such periods of  
9 time as the board of trustees and the board of county commissioners,  
10 in their discretion, may determine best meets the purpose of the  
11 retirement system. Notwithstanding any other provision in this  
12 section, a retirement benefits plan based upon the contributions by  
13 or for the benefit of an employee hired prior to November 1, 2005,  
14 as provided in this subsection shall be subject to the following  
15 vesting restrictions:

- 16 1. Twenty percent (20%) vesting after two (2) years of service;
- 17 2. Forty percent (40%) vesting after three (3) years of  
18 service;
- 19 3. Sixty percent (60%) vesting after four (4) years of service;
- 20 and
- 21 4. One hundred percent (100%) vesting after five (5) years of  
22 service.

23 These vesting restrictions are for the benefit of a  
24 participating member or other designated beneficiary after the

1 employment of the member is permanently terminated with a  
2 participating employer of the retirement plan. An employee is  
3 permanently terminated after termination from employment with a  
4 participating employer after passage of the period of time specified  
5 in the retirement plan. Pending permanent termination of an  
6 employee, the nonvested portion of the monies will be held in escrow  
7 until the time for reinstatement has lapsed as specified in the  
8 retirement plan. After the time for reinstatement has lapsed, any  
9 nonvested forfeitures shall be used to offset prospective employer  
10 contributions or to pay expenses associated with the retirement  
11 plan.

12 B. A retirement benefits plan based upon the contributions by  
13 or for the benefit of an employee hired on or after November 1,  
14 2005, as provided in this subsection shall be subject to full  
15 vesting after five (5) years of service. There shall be no partial  
16 vesting for employees hired on or after November 1, 2005.

17 C. Notwithstanding other provisions of law, the accumulated  
18 vested benefits of a member, as provided in this section, who dies  
19 before retirement or permanent termination of employment, may be  
20 withdrawn from time to time in whole or in part by the beneficiary  
21 of the deceased member upon application to the Board of Trustees in  
22 a manner prescribed by the Board of Trustees.

23 D. If a county elects to provide benefits pursuant to this  
24 section, all persons participating in the existing system shall be

1 given the option of remaining subject to the existing retirement  
2 system. All persons becoming members of the retirement system after  
3 the effective date of this act would be required to participate in  
4 the defined contribution benefit system specified in this section.  
5 Upon approval of the board of trustees and the board of county  
6 commissioners, the existing liabilities under the defined benefits  
7 system provided in Section 956 of this title and the liabilities  
8 accrued under the defined contribution benefit system provided in  
9 this section may be funded by annuities purchased from annuity or  
10 insurance companies licensed to do business in this state as  
11 recommended by the board of trustees and approved by the board of  
12 county commissioners.

13 E. All administrative costs associated with the operation of a  
14 defined benefit retirement system shall be paid exclusively from the  
15 contributions made by the employer on behalf of employees electing  
16 to participate in the defined benefit retirement system, the  
17 contributions made by individual employees electing to participate  
18 in the defined benefit retirement system and any income generated  
19 from investment of the funds of the defined benefit retirement  
20 system.

21 F. No costs associated with the operation of a defined  
22 contribution retirement system may be paid from funds used in the  
23 operation of a defined benefit retirement system. Said costs  
24 associated with the operation of the defined contribution retirement

1 system shall be paid for by the county from the county general fund  
2 as defined by Section 331 of Title 62 of the Oklahoma Statutes or  
3 from any other monies available which are not specifically  
4 prohibited from being used for this purpose.

5 SECTION 5. It being immediately necessary for the preservation  
6 of the public peace, health and safety, an emergency is hereby  
7 declared to exist, by reason whereof this act shall take effect and  
8 be in full force from and after its passage and approval.

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10 53-1-7783 LRB 05/12/11

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