

**HOUSE OF REPRESENTATIVES - FLOOR VERSION**

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

HOUSE BILL 2132

By: Steele of the House

and

Bingman of the Senate

AS INTRODUCED

An Act relating to public finance; enacting the Truth in Funding Act; amending Section 3, Chapter 292, O.S.L. 2006, as last amended by Section 32, Chapter 3, O.S.L. 2008, Section 7, Chapter 292, O.S.L. 2006, as amended by Section 8, Chapter 367, O.S.L. 2007, Section 11, Chapter 292, O.S.L. 2006, as amended by Section 3, Chapter 186, O.S.L. 2007 and Section 12, Chapter 292, O.S.L. 2006 (62 O.S. Supp. 2010, Sections 3103, 3107, 3111 and 3112), which relate to the Oklahoma Pension Legislation Actuarial Analysis Act; modifying definitions; modifying provisions related to concurrent funding; deleting provision related to liabilities attributable to certain cost-of-living adjustments; providing standard for determination of concurrent funding; prohibiting retirement systems from adopting cost-of-living actuarial assumptions; providing certain measures not effective and prohibiting administration without concurrent funding determination; providing for noncodification; providing an effective date; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law not to be  
2 codified in the Oklahoma Statutes reads as follows:

3 This act shall be known and may be cited as the "Truth in  
4 Funding Act".

5 SECTION 2. AMENDATORY Section 3, Chapter 292, O.S.L.  
6 2006, as last amended by Section 32, Chapter 3, O.S.L. 2008 (62 O.S.  
7 Supp. 2010, Section 3103), is amended to read as follows:

8 Section 3103. As used in the Oklahoma Pension Legislation  
9 Actuarial Analysis Act:

10 1. "Amendment" means any amendment, including a substitute  
11 bill, made to a retirement bill by any committee of the House or  
12 Senate, any conference committee of the House or Senate or by the  
13 House or Senate;

14 2. "RB number" means that number preceded by the letters "RB"  
15 assigned to a retirement bill by the respective staffs of the  
16 Oklahoma State Senate and the Oklahoma House of Representatives when  
17 the respective staff office prepares a retirement bill for a member  
18 of the Legislature;

19 3. "Legislative Actuary" means the firm or entity that enters  
20 into a contract with the Legislative Service Bureau pursuant to  
21 Section 452.15 of Title 74 of the Oklahoma Statutes to provide the  
22 actuarial services and other duties provided for in the Oklahoma  
23 Pension Legislation Actuarial Analysis Act;

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1 4. "Nonfiscal amendment" means an amendment to a retirement  
2 bill having a fiscal impact, which amendment does not change any  
3 factor of an actuarial investigation specified in subsection A of  
4 Section 3109 of this title;

5 5. "Nonfiscal retirement bill" means a retirement bill which  
6 does not affect the cost or funding factors of a retirement system  
7 or a retirement bill which affects such factors only in a manner  
8 which does not:

- 9 a. ~~grant a benefit increase under the retirement system~~  
10 ~~affected by the bill except for cost of living~~  
11 ~~adjustments provided to retirees of the retirement~~  
12 ~~system, if the increase in actuarial accrued liability~~  
13 ~~from the increase does not exceed the cumulative~~  
14 ~~increase in actuarial accrued liability already fully~~  
15 ~~reflected in its liabilities by the retirement system~~  
16 ~~from an actuarial assumption of a cost of living~~  
17 ~~adjustment of an existing retirement system which~~  
18 ~~assumption was established by the retirement system as~~  
19 ~~of December 31, 2006, or which shall not exceed two~~  
20 ~~percent (2%) annually on a cumulative basis for a~~  
21 ~~retirement system created on or after January 1, 2006,~~  
22 ~~which bill shall specifically identify such cost of~~  
23 ~~living increase,~~

1           ~~b.~~    create an actuarial accrued liability for or increase  
2                    the actuarial accrued liability of the retirement  
3                    system affected by the bill, or

4           e. b.    increase the normal cost of the retirement system  
5                    affected by the bill ~~except as otherwise provided by~~  
6                    ~~subparagraph a of this paragraph.~~

7 A nonfiscal retirement bill shall include any retirement bill that  
8 has as its sole purpose the appropriation or distribution or  
9 redistribution of monies in some manner to a retirement system for  
10 purposes of reducing the unfunded liability of such system or the  
11 earmarking of a portion of the revenue from a tax to a retirement  
12 system or increasing the percentage of the revenue earmarked from a  
13 tax to a retirement system;

14           6. "Reduction in cost amendment" means an amendment to a  
15 retirement bill having a fiscal impact which reduces the cost of the  
16 bill as such cost is determined by the actuarial investigation for  
17 the bill prepared pursuant to Section 3109 of this title;

18           7. "Retirement bill" means any bill or joint resolution  
19 introduced or any bill or joint resolution amended by a member of  
20 the Oklahoma Legislature which creates or amends any law directly  
21 affecting a retirement system. A retirement bill shall not mean a  
22 bill or resolution that impacts the revenue of any state tax in  
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1 which a portion of the revenue generated from such tax is earmarked  
2 for the benefit of a retirement system;

3 8. "Retirement bill having a fiscal impact" means any  
4 retirement bill creating or establishing a retirement system and any  
5 other retirement bill other than a nonfiscal retirement bill; and

6 9. "Retirement system" means the Teachers' Retirement System of  
7 Oklahoma, the Oklahoma Public Employees Retirement System, the  
8 Uniform Retirement System for Justices and Judges, the Oklahoma  
9 Firefighters Pension and Retirement System, the Oklahoma Police  
10 Pension and Retirement System, the Oklahoma Law Enforcement  
11 Retirement System, or a retirement system established after January  
12 1, 2006.

13 SECTION 3. AMENDATORY Section 7, Chapter 292, O.S.L.  
14 2006, as amended by Section 8, Chapter 367, O.S.L. 2007 (62 O.S.  
15 Supp. 2010, Section 3107), is amended to read as follows:

16 Section 3107. A. 1. Except as otherwise provided in this  
17 subsection, any retirement bill having a fiscal impact may be  
18 introduced according to the applicable deadlines established by the  
19 House of Representatives or Senate only in any odd-numbered year  
20 during the regular session. Any such retirement bill may be passed  
21 by the Legislature only during an even-numbered year of the regular  
22 session. Any retirement bill determined by the Legislative Actuary  
23 in an even-numbered year to be a fiscal retirement bill may be

1 introduced in an even-numbered year, but shall not be considered by  
2 the Legislature.

3 2. Notwithstanding the provisions of paragraph 1 of this  
4 subsection and subject to the provisions of Section 3111 of this  
5 title, any retirement bill having a fiscal impact may be introduced,  
6 considered and enacted in any year of a regular session of the  
7 Legislature if such retirement bill is introduced solely for the  
8 purpose of an unforeseen or emergency situation that needs to be  
9 addressed immediately. Such retirement bill shall only be  
10 considered if three-fourths (3/4) of the membership of each House  
11 votes to allow the retirement bill to be considered. Such  
12 retirement bill shall be subject to an actuarial investigation by  
13 the Legislature Actuary in the year the bill is introduced and  
14 considered and shall require concurrent funding, ~~if applicable~~ as  
15 provided in Section 3111 of this title.

16 B. When a retirement bill having a fiscal impact is introduced,  
17 it shall be assigned to the respective Senate or House of  
18 Representatives standing committee or subcommittee that is primarily  
19 responsible for the consideration of retirement legislation. If a  
20 majority of the total membership of such committee is opposed to the  
21 bill on its merits, no actuarial investigation provided for in  
22 Section 3109 of this title shall be necessary, and the bill shall  
23 not be reported out by the committee and shall not be adopted or

1 considered by the House of Representatives or the Senate. If a  
2 majority of the committee wishes to consider the bill further and  
3 votes in favor of an actuarial investigation of the bill, an  
4 actuarial investigation shall be required as provided in Section  
5 3109 of this title. Except as otherwise provided by subsection C of  
6 this section, no retirement bill having a fiscal impact may be  
7 reported out of the committee to which it is assigned or may be  
8 considered or adopted by the House of Representatives or the Senate  
9 unless an actuarial investigation of the bill is made.

10 C. The committee to which a retirement bill having a fiscal  
11 impact is assigned following its introduction may amend the bill to  
12 become a nonfiscal retirement bill. If the bill is so amended, an  
13 exact copy of the amended version shall be submitted by the chair of  
14 the committee to the Legislative Actuary. If the Legislative  
15 Actuary issues a written certification that the committee amendment  
16 has converted the status of the bill to a nonfiscal retirement bill,  
17 the bill shall be a nonfiscal retirement bill for all purposes under  
18 the provisions of this act as of the date of the certification of  
19 the Legislative Actuary. Only the committee to which a retirement  
20 bill having a fiscal impact is originally assigned following its  
21 introduction may convert the bill to a nonfiscal retirement bill as  
22 authorized in this subsection.

1 SECTION 4. AMENDATORY Section 11, Chapter 292, O.S.L.  
2 2006, as amended by Section 3, Chapter 186, O.S.L. 2007 (62 O.S.  
3 Supp. 2010, Section 3111), is amended to read as follows:

4 Section 3111. A. Any retirement bill having a fiscal impact  
5 which is enacted by the Legislature and which is approved by the  
6 Governor or which otherwise becomes law shall become effective on  
7 the first day of July immediately following the regular session  
8 during which it was enacted, but only if the enacted bill is  
9 concurrently funded as provided by this section and only if the bill  
10 is approved as an emergency measure by a vote of two-thirds (2/3) of  
11 all members elected to each House. If an enacted bill does not  
12 receive a two-thirds (2/3) vote of all members, the law shall become  
13 effective on the first day of September immediately following the  
14 regular session during which it was enacted. If an enacted bill,  
15 including one approved by the Governor, is not concurrently funded  
16 as required by this section, then such bill shall not become  
17 effective as law.

18 B. When a retirement bill having a fiscal impact amends a  
19 retirement system having employer contributions funded from  
20 appropriations by the Legislature, then appropriations for the first  
21 fiscal year of effectiveness of the bill, after it becomes law, must  
22 include funds to pay the amount determined by the actuarial  
23 investigation under paragraph 5 of subsection A of Section 3109 of

1 this title. It is the intent of the Legislature that future  
2 appropriations for subsequent fiscal years must include an amount  
3 necessary to maintain the actuarial soundness of the retirement  
4 system in accordance with the findings of the actuarial  
5 investigation. Any limitation on the rate of employer contributions  
6 that may be included in a law which is the source of authority for a  
7 retirement system affected by this subsection shall be amended to  
8 the extent necessary to comply with the requirements of this  
9 subsection.

10 C. When a retirement bill having a fiscal impact amends a  
11 retirement system having employer contributions funded wholly or  
12 partially from the funds of a political subdivision, that political  
13 subdivision shall have a duty to produce funds as necessary to pay  
14 all or its proportionate share of the amount determined by actuarial  
15 investigation under paragraph 5 of subsection A of Section 3109 of  
16 this title.

17 D. When a retirement bill having a fiscal impact creates a new  
18 retirement system, then employer contributions in conformity with  
19 paragraph 5 of subsection A of Section 3109 of this title must be  
20 made to the retirement system either by direct appropriations by the  
21 Legislature or by another source of employer contributions  
22 specifically provided for in the bill creating the new retirement  
23 system.

1       ~~E. For purposes of determining the concurrent funding~~  
2 ~~requirement imposed pursuant to this section with respect to a~~  
3 ~~fiscal retirement bill, if a bill to provide a cost-of-living~~  
4 ~~adjustment to the retirees of the applicable retirement system would~~  
5 ~~have the effect of increasing the liabilities of the retirement~~  
6 ~~system in excess of the liabilities already reflected in the~~  
7 ~~retirement system's actuarial assumption for such cost-of-living~~  
8 ~~adjustment, as defined in Section 3103 of this title, only the~~  
9 ~~amount of the excess liabilities not already included in the~~  
10 ~~applicable actuarial assumption for the system shall require~~  
11 ~~concurrent funding~~ A retirement bill having a fiscal impact shall be  
12 considered currently funded only if the Legislature provides funding  
13 as determined by the Legislative Actuary pursuant to Section 3109 of  
14 this title in an amount equal to or exceeding the annual normal cost  
15 to the retirement system resulting from the retirement bill having a  
16 fiscal impact.

17       F. No retirement system shall adopt a cost-of-living actuarial  
18 assumption or cause such an assumption to be included in any  
19 actuarial valuation since this section requires all retirement bills  
20 having a fiscal impact be fully funded.

21       SECTION 5.       AMENDATORY       Section 12, Chapter 292, O.S.L.  
22 2006 (62 O.S. Supp. 2010, Section 3112), is amended to read as  
23 follows:  
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1 Section 3112. A. Following the close of each regular  
2 legislative session during which retirement bills having a fiscal  
3 impact may be enacted, the State Board of Equalization shall make a  
4 determination for each such bill enacted during such session, which  
5 is not vetoed by the Governor, of whether or not provision has been  
6 made for the concurrent funding of the bill in conformity with the  
7 applicable requirements of Section ~~11~~ 3111 of this ~~act~~ title.

8 B. The Legislative Actuary, the Director of the Office of State  
9 Finance, legislative staff, retirement system administrators, and  
10 employers shall provide such information and assistance as may be  
11 necessary for the State Board of Equalization to make the  
12 determinations required by subsection A of this section.

13 C. The State Board of Equalization shall make the  
14 determinations required by subsection A of this section by not later  
15 than the fifteenth day immediately following the last day on which  
16 the Governor is authorized to veto bills following the close of each  
17 regular legislative session. The State Board of Equalization's  
18 findings shall be made in a report to the Secretary of State showing  
19 the determination for each retirement bill by reference to the  
20 respective Senate or House of Representatives number for the bill.  
21 The report shall be submitted to the Secretary of State by not later  
22 than the last day on which the State Board of Equalization is  
23 required to make the determinations. The Secretary of State shall

1 cause the State Board of Equalization's report to be printed in the  
2 annual session laws of the State of Oklahoma.

3 D. In the event the State Board of Equalization determines that  
4 any retirement bill having a fiscal impact does not have concurrent  
5 funding in conformity with the requirements of Section 3111 of this  
6 title, such bill shall not become effective and may not be  
7 administered by the applicable retirement system until the State  
8 Board of Equalization makes a determination that the required  
9 funding has been provided.

10 SECTION 6. This act shall become effective July 1, 2011.

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

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16 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM AND  
17 FINANCIAL SERVICES, dated 02-17-2011 - DO PASS, As Coauthored.

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