

**HOUSE OF REPRESENTATIVES - FLOOR VERSION**

STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

HOUSE BILL 2322

By: McDaniel (Randy) of the House

and

Brown of the Senate

AS INTRODUCED

An Act relating to public retirement systems; amending 74 O.S. 2011, Sections 909.1 and 913.4, which relate to the Oklahoma Public Employees Retirement System; modifying provisions related to investment of retirement system assets; modifying provisions related to certain actuarial assumption related to cost-of-living adjustment; modifying provisions related to computation of retirement benefits for elected officials; modifying provisions related to computation of early retirement benefits for elected officials; repealing 74 O.S. 2011, Section 922, which relates to reserves; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 909.1, is amended to read as follows:

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

1 Section 909.1 A. The Oklahoma Public Employees Retirement  
2 System Board of Trustees shall discharge their duties with respect  
3 to the System solely in the interest of the participants and  
4 beneficiaries and:

5 1. For the exclusive purpose of:

6 a. providing benefits to participants and their  
7 beneficiaries, and

8 b. defraying reasonable expenses of administering the  
9 System;

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

14 3. By diversifying the investments of the System so as to  
15 minimize the risk of large losses, unless under the circumstances it  
16 is clearly prudent not to do so; and

17 4. In accordance with the laws, documents and instruments  
18 governing the System.

19 B. The Board of Trustees may procure insurance indemnifying the  
20 members of the Board of Trustees from personal loss or  
21 accountability from liability resulting from a member's action or  
22 inaction as a member of the Board of Trustees.

1 C. The Board of Trustees may establish an investment committee.  
2 The investment committee shall be composed of not more than five (5)  
3 members of the Board of Trustees appointed by the chairman of the  
4 Board of Trustees. The committee shall make recommendations to the  
5 full Board of Trustees on all matters related to the choice of  
6 custodians and managers of the assets of the System, on the  
7 establishment of investment and fund management guidelines, and in  
8 planning future investment policy. The committee shall have no  
9 authority to act on behalf of the Board of Trustees in any  
10 circumstances whatsoever. No recommendation of the committee shall  
11 have effect as an action of the Board of Trustees nor take effect  
12 without the approval of the Board of Trustees as provided by law.

13 D. The Board of Trustees shall retain qualified investment  
14 managers to provide for the investment of the monies of the System.  
15 The investment managers shall be chosen by a solicitation of  
16 proposals on a competitive bid basis pursuant to standards set by  
17 the Board of Trustees. Subject to the overall investment guidelines  
18 set by the Board of Trustees, the investment managers shall have  
19 full discretion in the management of those monies of the System  
20 allocated to the investment managers. The Board of Trustees shall  
21 manage those monies not specifically allocated to the investment  
22 managers. The monies of the System allocated to the investment  
23 managers shall be ~~actively~~ managed by the investment managers, which

1 may include selling investments and realizing losses if such action  
2 is considered advantageous to longer term return maximization.

3 Because of the total return objective, no distinction shall be made  
4 for management and performance evaluation purposes between realized  
5 and unrealized capital gains and losses.

6 E. Funds and revenues for investment by the investment managers  
7 or the Board of Trustees shall be placed with a custodian selected  
8 by the Board of Trustees. The custodian shall be a bank or trust  
9 company offering pension fund master trustee and master custodial  
10 services. The custodian shall be chosen by a solicitation of  
11 proposals on a competitive basis pursuant to standards set by the  
12 Board of Trustees. In compliance with the investment policy  
13 guidelines of the Board of Trustees, the custodian bank or trust  
14 company shall be contractually responsible for ensuring that all  
15 monies of the System are invested in income-producing investment  
16 vehicles at all times. If a custodian bank or trust company has not  
17 received direction from the investment managers of the System as to  
18 the investment of the monies of the System in specific investment  
19 vehicles, the custodian bank or trust company shall be contractually  
20 responsible to the Board of Trustees for investing the monies in  
21 appropriately collateralized short-term interest-bearing investment  
22 vehicles.

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1 F. By November 1, 1988, and prior to August 1 of each year  
2 thereafter, the Board of Trustees shall develop a written investment  
3 plan for the System.

4 G. The Board of Trustees shall compile a quarterly financial  
5 report of all the funds of the System on a fiscal year basis. The  
6 report shall be compiled pursuant to uniform reporting standards  
7 prescribed by the Oklahoma State Pension Commission for all state  
8 retirement systems. The report shall include several relevant  
9 measures of investment value, including acquisition cost and current  
10 fair market value with appropriate summaries of total holdings and  
11 returns. The report shall contain combined and individual rate of  
12 returns of the investment managers by category of investment, over  
13 periods of time. The Board of Trustees shall include in the  
14 quarterly reports all commissions, fees or payments for investment  
15 services performed on behalf of the Board. The report shall be  
16 distributed to the Governor, the Oklahoma State Pension Commission,  
17 the Legislative Service Bureau, the Speaker of the House of  
18 Representatives and the President Pro Tempore of the Senate. In  
19 lieu of compiling and distributing the quarterly report, the Board  
20 may provide the Pension Commission with direct access to the same  
21 data from the custodian bank for the System.

22 H. After July 1 and before December 1 of each year, the Board  
23 of Trustees shall publish widely an annual report presented in  
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1 simple and easily understood language pursuant to uniform reporting  
2 standards prescribed by the Oklahoma State Pension Commission for  
3 all state retirement systems. The report shall be submitted to the  
4 Governor, the Speaker of the House of Representatives, the President  
5 Pro Tempore of the Senate, the Oklahoma State Pension Commission and  
6 the members of the System. The annual report shall cover the  
7 operation of the System during the past fiscal year, including  
8 income, disbursements, and the financial condition of the System at  
9 the end of the fiscal year. The annual report shall also contain  
10 the information issued in the quarterly reports required pursuant to  
11 subsection G of this section as well as a summary of the results of  
12 the most recent actuarial valuation to include total assets, total  
13 liabilities, unfunded liability or over funded status, contributions  
14 and any other information deemed relevant by the Board of Trustees.  
15 The annual report shall be written in such a manner as to permit a  
16 readily understandable means for analyzing the financial condition  
17 and performance of the System for the fiscal year.

18 I. The Board shall distribute the corpus and income of the  
19 System to the members and their beneficiaries in accordance with the  
20 System's laws and rules and regulations. At no time prior to the  
21 satisfaction of all liabilities with respect to members and their  
22 beneficiaries shall any part of the corpus and income be used for,  
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1 or diverted to, purposes other than the exclusive benefit of the  
2 members and their beneficiaries.

3 ~~J. The Board of Trustees shall adopt a cost of living~~  
4 ~~adjustment actuarial assumption in its annual actuarial valuation~~  
5 ~~report.~~

6 SECTION 2. AMENDATORY 74 O.S. 2011, Section 913.4, is  
7 amended to read as follows:

8 Section 913.4 A. 1. Except as otherwise provided in this  
9 subsection, an elected official may elect to participate in the  
10 System and if he or she elects to do so shall have the option of  
11 participating at any one of the computation factors set forth in  
12 paragraphs 3 or 4 of this subsection and will receive retirement  
13 benefits in accordance with the computation factor chosen. The  
14 election on participation in the System must be in writing, must  
15 specify the computation factor chosen, and must be filed with the  
16 System within ninety (90) days after the elected official takes  
17 office. The election to participate and the election of a  
18 computation factor shall be irrevocable. Reelection to the same  
19 office will not permit new elections. Failure of an elected  
20 official to file such election form within the ninety-day period  
21 shall be deemed an irrevocable election to participate in the System  
22 at the maximum computation factor.

2. Contributions and benefits will be based upon the elected official's annual compensation as defined in Section 902 of this title. Employer and elected official contributions shall be remitted at least monthly, or as the Board may otherwise provide, to the System for deposit in the Oklahoma Public Employees Retirement Fund. Effective July 1, 1994, and thereafter, the participating employer shall contribute as provided in Section 920 of this title.

3. Except as provided in paragraph 4 of this subsection, effective July 1, 1994, the computation factor selected and the corresponding elected official contribution rate shall be as follows:

Elected official Contribution Rate	Computation Factor	Alternate Formula
4.5%	1.9%	\$12.50
6%	2.5%	\$20.00
7.5%	3.0%	\$25.00
8.5%	3.4%	\$27.50
9%	3.6%	\$30.00
10%	4.0%	\$40.00

4. Elected officials who are first elected or appointed to an elected office on or after November 1, 2010, shall elect a computation factor of either 1.9% or 4%. The elected official contribution rate for the 1.9% computation factor is currently 4.5%

1 and the contribution rate for the 4% computation factor is currently  
2 10%. All other computation factors and contribution rates set forth  
3 in paragraph 3 of this subsection shall not be available to any  
4 person first elected or appointed to an elected office on or after  
5 November 1, 2010.

6 5. The contribution rate for elected officials who are first  
7 elected or appointed to an elected office on or after November 1,  
8 2011, shall be in the amount specified in paragraph (a) of  
9 subsection (1) of Section 919.1 of this title. The amount of the  
10 retirement benefit for elected officials who are first elected or  
11 appointed to an elected office on or after November 1, 2011, shall  
12 be based on the provisions of paragraph (1) of subsection A of  
13 Section 915 of this title.

14 6. The computation factors and corresponding elected official  
15 contribution rates provided for in paragraphs 3 and 4 of this  
16 subsection shall be based on the entire compensation as an elected  
17 official subject to the definition and maximum compensation levels  
18 as set forth in paragraph (9) of Section 902 of this title.

19 7. Elected officials who are first elected or appointed on or  
20 after November 1, 2011, shall also be eligible to make the election  
21 of an alternate multiplier and contribution rate pursuant to  
22 paragraph 2 of subsection A of Section 915 of this title.

1 B. The normal retirement date for an elected official shall be  
 2 the first day of the month coinciding with or following the  
 3 official's sixtieth birthday or the first day of the month  
 4 coinciding with or following the date at which the sum of the  
 5 elected official's age and number of years of credited service total  
 6 eighty (80). The normal retirement date for an elected official  
 7 first elected or appointed to an elected office on or after November  
 8 1, 2011, shall be the first day of the month coinciding with or  
 9 following the official's sixty-fifth birthday or the date upon which  
 10 the elected or appointed official attains the age of sixty-two (62)  
 11 and who has at least ten (10) years of elected or appointed service.  
 12 Any elected official first elected or appointed to an elected office  
 13 before November 1, 2011, who has a minimum of ten (10) years'  
 14 participating service may retire under the early retirement  
 15 provisions of this act, including those electing a vested benefit  
 16 and shall receive an adjustment of annual benefits in accordance  
 17 with the following percentage schedule:

Age	Percentage of Normal Retirement Benefits
60	100%
59	94%
58	88%
57	82%

UNDERLINED language denotes Amendments to present Statutes.  
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~~Strike thru~~ language denotes deletion from present Statutes.



1 official prior to retirement or termination of employment multiplied  
2 by the number of years of credited service. No elected official  
3 shall retire using such highest annual compensation unless the  
4 elected official has made the required election and has paid the  
5 required contributions on such salary.

6 2. The retirement benefit may be computed pursuant to the  
7 provisions of paragraph (1) of subsection A of Section 915 of this  
8 title if the benefit would be higher. Elected officials who have a  
9 vested benefit prior to July 1, 1980, may elect to receive annual  
10 benefits based on the alternate formula provided above. Such annual  
11 benefits shall be paid in equal monthly installments.

12 3. Elected officials who become members of the Oklahoma Public  
13 Employees Retirement System on or after August 22, 2008, will  
14 receive retirement benefits in accordance with the computation  
15 factor selected pursuant to subsection A of this section multiplied  
16 by the member's highest annual compensation received as an elected  
17 official and only for those years of credited service the member  
18 served as an elected official. If such elected official has  
19 participating service as a nonelected member, then such nonelected  
20 service shall be computed separately pursuant to the provisions of  
21 paragraph (1) of subsection A of Section 915 of this title with the  
22 final benefit result added to the final benefit result for elected  
23 service. In no event shall the elected official be entitled to

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1 apply the computation factor selected pursuant to subsection A of  
2 this section or the compensation received as an elected official to  
3 the computation of nonelected service.

4 4. Elected officials who are first elected or appointed to an  
5 elected office on or after August 22, 2008, may not receive a  
6 maximum benefit greater than their single highest annual  
7 compensation received as a member of the Oklahoma Public Employees  
8 Retirement System.

9 D. Any elected official making an election to participate at a  
10 computation factor less than the maximum and later selecting a  
11 higher computation factor shall contribute to the System a sum equal  
12 to the amount which the elected official would have contributed if  
13 the elected official had made such election at the time the elected  
14 official first became eligible, plus interest as determined by the  
15 Board, in order to receive the additional benefits for all service  
16 as an elected official; otherwise, the additional benefits shall be  
17 applicable only to service for which the elected official pays the  
18 appropriate percent of contributions to the System.

19 E. The surviving spouse of a deceased elected official who was  
20 first elected or appointed to an elected office before November 1,  
21 2011, and who has at least six (6) years of participating service  
22 and the surviving spouse of a deceased elected official who was  
23 first elected or appointed to an elected office on or after November  
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1 1, 2011, and who has at least eight (8) years of participating  
2 service shall be entitled to receive survivor benefits in the amount  
3 herein prescribed, if married to the decedent continuously for a  
4 period of at least three (3) years immediately preceding the elected  
5 official's death. Provided the elected official had met the service  
6 requirements, survivor benefits shall be payable when the deceased  
7 member would have met the requirements for normal or early  
8 retirement. The amount of the benefits the surviving spouse may  
9 receive shall be fifty percent (50%) of the amount of benefits the  
10 deceased elected official was receiving or will be eligible to  
11 receive. Remarriage of a surviving spouse shall disqualify the  
12 spouse for the receipt of survivor benefits. Elected officials may  
13 elect a retirement option as provided in Section 918 of this title  
14 in lieu of the survivors benefit provided above.

15 F. Any elected official who served in the Armed Forces of the  
16 United States, as defined in paragraph (23) of Section 902 of this  
17 title, prior to membership in the Oklahoma Public Employees  
18 Retirement System shall be granted credited service of not to exceed  
19 five (5) years for those periods of active military service during  
20 which the elected official was a war veteran.

21 G. Anyone appointed or elected to an elected position after  
22 July 1, 1990, shall not be eligible to receive benefits as provided  
23 in this section until such person has participated as an elected  
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1 official for six (6) years. Anyone appointed or elected to an  
2 elected position on or after November 1, 2011, shall not be eligible  
3 to receive benefits as provided in this section until such person  
4 has participated as an elected official for eight (8) years.

5 H. Elected officials who terminate participation in the System  
6 and who have a minimum of six (6) years of participating service  
7 shall be entitled to elect a vested benefit and shall be entitled to  
8 the retirement options as provided in Section 918 of this title in  
9 lieu of the survivors benefit provided in subsection E of this  
10 section. Elected officials, first elected or appointed to an  
11 elected office on or after November 1, 2011, who terminate  
12 participation in the System and who have a minimum of eight (8)  
13 years of participating service shall be entitled to elect a vested  
14 benefit and shall be entitled to retirement options as provided in  
15 Section 918 of this title in lieu of the survivors benefits provided  
16 in subsection E of this section.

17 I. In determining the number of years of credited service, a  
18 fractional year of six (6) months or more shall be considered as one  
19 (1) year, and less than six (6) months or more shall be disregarded.

20 SECTION 3. REPEALER 74 O.S. 2011, Section 922, is hereby  
21 repealed.

22 SECTION 4. This act shall become effective July 1, 2012.

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

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6 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM AND  
7 FINANCIAL SERVICES, dated 02/23/2012 - DO PASS, As Coauthored.  
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January 13, 2012

Representative R McDaniel  
Room 302-B

Re: RBH No. 8399

RBH No. 8399 is a clean up bill for OPERS. It removes the Systems ability to set the cost of living adjustment assumption in it's actuarial valuation. It also allows newly elected officials to increase their contribution rate and receive an increased retirement benefit. Other state employees currently have the same right.

RBH No. 8399 is a nonfiscal retirement bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act.

*Thomas E. Cummins*

Thomas E. Cummins, MAAA