

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

HOUSE BILL 2132

By: Steele

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:

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

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

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

4 Section 3103. As used in the Oklahoma Pension Legislation
5 Actuarial Analysis Act:

6 1. "Amendment" means any amendment, including a substitute
7 bill, made to a retirement bill by any committee of the House or
8 Senate, any conference committee of the House or Senate or by the
9 House or Senate;

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

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

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

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1 5. "Nonfiscal retirement bill" means a retirement bill which
2 does not affect the cost or funding factors of a retirement system
3 or a retirement bill which affects such factors only in a manner
4 which does not:

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

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

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

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

22 8. "Retirement bill having a fiscal impact" means any
23 retirement bill creating or establishing a retirement system and any
24 other retirement bill other than a nonfiscal retirement bill; and

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

8 SECTION 3. AMENDATORY Section 7, Chapter 292, O.S.L.
9 2006, as amended by Section 8, Chapter 367, O.S.L. 2007 (62 O.S.
10 Supp. 2010, Section 3107), is amended to read as follows:

11 Section 3107. A. 1. Except as otherwise provided in this
12 subsection, any retirement bill having a fiscal impact may be
13 introduced according to the applicable deadlines established by the
14 House of Representatives or Senate only in any odd-numbered year
15 during the regular session. Any such retirement bill may be passed
16 by the Legislature only during an even-numbered year of the regular
17 session. Any retirement bill determined by the Legislative Actuary
18 in an even-numbered year to be a fiscal retirement bill may be
19 introduced in an even-numbered year, but shall not be considered by
20 the Legislature.

21 2. Notwithstanding the provisions of paragraph 1 of this
22 subsection and subject to the provisions of Section 3111 of this
23 title, any retirement bill having a fiscal impact may be introduced,
24 considered and enacted in any year of a regular session of the

1 Legislature if such retirement bill is introduced solely for the
2 purpose of an unforeseen or emergency situation that needs to be
3 addressed immediately. Such retirement bill shall only be
4 considered if three-fourths (3/4) of the membership of each House
5 votes to allow the retirement bill to be considered. Such
6 retirement bill shall be subject to an actuarial investigation by
7 the Legislature Actuary in the year the bill is introduced and
8 considered and shall require concurrent funding, ~~if applicable~~ as
9 provided in Section 3111 of this title.

10 B. When a retirement bill having a fiscal impact is introduced,
11 it shall be assigned to the respective Senate or House of
12 Representatives standing committee or subcommittee that is primarily
13 responsible for the consideration of retirement legislation. If a
14 majority of the total membership of such committee is opposed to the
15 bill on its merits, no actuarial investigation provided for in
16 Section 3109 of this title shall be necessary, and the bill shall
17 not be reported out by the committee and shall not be adopted or
18 considered by the House of Representatives or the Senate. If a
19 majority of the committee wishes to consider the bill further and
20 votes in favor of an actuarial investigation of the bill, an
21 actuarial investigation shall be required as provided in Section
22 3109 of this title. Except as otherwise provided by subsection C of
23 this section, no retirement bill having a fiscal impact may be
24 reported out of the committee to which it is assigned or may be

1 considered or adopted by the House of Representatives or the Senate
2 unless an actuarial investigation of the bill is made.

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

16 SECTION 4. AMENDATORY Section 11, Chapter 292, O.S.L.
17 2006, as amended by Section 3, Chapter 186, O.S.L. 2007 (62 O.S.
18 Supp. 2010, Section 3111), is amended to read as follows:

19 Section 3111. A. Any retirement bill having a fiscal impact
20 which is enacted by the Legislature and which is approved by the
21 Governor or which otherwise becomes law shall become effective on
22 the first day of July immediately following the regular session
23 during which it was enacted, but only if the enacted bill is
24 concurrently funded as provided by this section and only if the bill

1 is approved as an emergency measure by a vote of two-thirds (2/3) of
2 all members elected to each House. If an enacted bill does not
3 receive a two-thirds (2/3) vote of all members, the law shall become
4 effective on the first day of September immediately following the
5 regular session during which it was enacted. If an enacted bill,
6 including one approved by the Governor, is not concurrently funded
7 as required by this section, then such bill shall not become
8 effective as law.

9 B. When a retirement bill having a fiscal impact amends a
10 retirement system having employer contributions funded from
11 appropriations by the Legislature, then appropriations for the first
12 fiscal year of effectiveness of the bill, after it becomes law, must
13 include funds to pay the amount determined by the actuarial
14 investigation under paragraph 5 of subsection A of Section 3109 of
15 this title. It is the intent of the Legislature that future
16 appropriations for subsequent fiscal years must include an amount
17 necessary to maintain the actuarial soundness of the retirement
18 system in accordance with the findings of the actuarial
19 investigation. Any limitation on the rate of employer contributions
20 that may be included in a law which is the source of authority for a
21 retirement system affected by this subsection shall be amended to
22 the extent necessary to comply with the requirements of this
23 subsection.

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1 C. When a retirement bill having a fiscal impact amends a
2 retirement system having employer contributions funded wholly or
3 partially from the funds of a political subdivision, that political
4 subdivision shall have a duty to produce funds as necessary to pay
5 all or its proportionate share of the amount determined by actuarial
6 investigation under paragraph 5 of subsection A of Section 3109 of
7 this title.

8 D. When a retirement bill having a fiscal impact creates a new
9 retirement system, then employer contributions in conformity with
10 paragraph 5 of subsection A of Section 3109 of this title must be
11 made to the retirement system either by direct appropriations by the
12 Legislature or by another source of employer contributions
13 specifically provided for in the bill creating the new retirement
14 system.

15 ~~E. For purposes of determining the concurrent funding~~
16 ~~requirement imposed pursuant to this section with respect to a~~
17 ~~fiscal retirement bill, if a bill to provide a cost-of-living~~
18 ~~adjustment to the retirees of the applicable retirement system would~~
19 ~~have the effect of increasing the liabilities of the retirement~~
20 ~~system in excess of the liabilities already reflected in the~~
21 ~~retirement system's actuarial assumption for such cost-of-living~~
22 ~~adjustment, as defined in Section 3103 of this title, only the~~
23 ~~amount of the excess liabilities not already included in the~~
24 ~~applicable actuarial assumption for the system shall require~~

1 ~~concurrent funding~~ A retirement bill having a fiscal impact shall be
2 considered currently funded only if the Legislature provides funding
3 as determined by the Legislative Actuary pursuant to Section 3109 of
4 this title in an amount equal to or exceeding the annual normal cost
5 to the retirement system resulting from the retirement bill having a
6 fiscal impact.

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

11 SECTION 5. AMENDATORY Section 12, Chapter 292, O.S.L.
12 2006 (62 O.S. Supp. 2010, Section 3112), is amended to read as
13 follows:

14 Section 3112. A. Following the close of each regular
15 legislative session during which retirement bills having a fiscal
16 impact may be enacted, the State Board of Equalization shall make a
17 determination for each such bill enacted during such session, which
18 is not vetoed by the Governor, of whether or not provision has been
19 made for the concurrent funding of the bill in conformity with the
20 applicable requirements of Section ~~11~~ 3111 of this ~~act~~ title.

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

3 C. The State Board of Equalization shall make the
4 determinations required by subsection A of this section by not later
5 than the fifteenth day immediately following the last day on which
6 the Governor is authorized to veto bills following the close of each
7 regular legislative session. The State Board of Equalization's
8 findings shall be made in a report to the Secretary of State showing
9 the determination for each retirement bill by reference to the
10 respective Senate or House of Representatives number for the bill.
11 The report shall be submitted to the Secretary of State by not later
12 than the last day on which the State Board of Equalization is
13 required to make the determinations. The Secretary of State shall
14 cause the State Board of Equalization's report to be printed in the
15 annual session laws of the State of Oklahoma.

16 D. In the event the State Board of Equalization determines that
17 any retirement bill having a fiscal impact does not have concurrent
18 funding in conformity with the requirements of Section 3111 of this
19 title, such bill shall not become effective and may not be
20 administered by the applicable retirement system until the State
21 Board of Equalization makes a determination that the required
22 funding has been provided.

23 SECTION 6. This act shall become effective July 1, 2011.
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1 SECTION 7. 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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January 20, 2011

Representative Kris Steele
Room 411

Re: RBH No. 6519

RBH No.6519 modifies the Oklahoma Pension Legislation Actuarial Analysis Act by removing the provision that allows Cost of Living Adjustments to be considered nonfiscal.

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RBH No. 6519 is a nonfiscal retirement bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act.

Thomas E. Cummins

Thomas E. Cummins, MAAA