

STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

SENATE BILL 1394

By: Holt of the Senate

and

McDaniel (Randy) of the House

AS INTRODUCED

An Act relating to state retirement systems; amending 11 O.S. 2011, Section 49-122.6, which relates to records of the Oklahoma Firefighters Pension and Retirement System; amending 11 O.S. 2011, Section 50-134.1, which relates to records of the Oklahoma Police Pension and Retirement System; amending 47 O.S. 2011, Section 2-303.1, which relates to the Oklahoma Law Enforcement Retirement Board; exempting certain information in a member's retirement file from confidentiality requirements; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 49-122.6, is amended to read as follows:

Section 49-122.6. ~~All~~ Except for the member's name, age, amount of contributions paid in, benefits being paid, amount of credited service and any documents verifying credited service or benefits, all information, documents and copies thereof contained in a member's retirement file shall be given confidential treatment and

1 shall not be made public by the Oklahoma Firefighters Pension and
2 Retirement System without the prior written consent of the member to
3 which it pertains, but shall be subject to subpoena or court order.

4 SECTION 2. AMENDATORY 11 O.S. 2011, Section 50-134.1, is
5 amended to read as follows:

6 Section 50-134.1. ~~All~~ Except for the member's name, age, amount
7 of contributions paid in, benefits being paid, amount of credited
8 service and any documents verifying credited service or benefits,
9 all information, documents and copies thereof contained in a
10 member's retirement file shall be given confidential treatment and
11 shall not be made public by the Oklahoma Police Pension and
12 Retirement System without the prior written consent of the member to
13 which it pertains, but shall be subject to court order.

14 SECTION 3. AMENDATORY 47 O.S. 2011, Section 2-303.1, is
15 amended to read as follows:

16 Section 2-303.1 A. The Oklahoma Law Enforcement Retirement
17 Board shall discharge its duties with respect to the System solely
18 in the interest of the participants and beneficiaries and:

- 19 1. For the exclusive purpose of:
- 20 a. providing benefits to participants and their
 - 21 beneficiaries, and
 - 22 b. defraying reasonable expenses of administering the
 - 23 System;
- 24

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

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

8 4. In accordance with the laws, documents and instruments
9 governing the System.

10 B. The Board may procure insurance indemnifying the members of
11 the Board from personal loss or accountability from liability
12 resulting from a member's action or inaction as a member of the
13 Board.

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

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

16 E. All assets of the System shall be held in trust for the
17 exclusive purpose of providing benefits for the members and
18 beneficiaries of the System, including defraying reasonable expenses
19 of administering the System, and shall not be encumbered for or
20 diverted to any other purposes. Funds and revenues for investment
21 by the investment managers or the Board shall be placed with a
22 custodian selected by the Board. The custodian shall be a bank or
23 trust company offering pension fund master trustee and master
24 custodial services. The custodian shall be chosen by a solicitation

1 of proposals on a competitive bid basis pursuant to standards set by
2 the Board. In compliance with the investment policy guidelines of
3 the Board, the custodian bank or trust company shall be
4 contractually responsible for ensuring that all monies of the System
5 are invested in income-producing investment vehicles at all times.
6 If a custodian bank or trust company has not received direction from
7 the investment managers of the System as to the investment of the
8 monies of the System in specific investment vehicles, the custodian
9 bank or trust company shall be contractually responsible to the
10 Board for investing the monies in appropriately collateralized
11 short-term interest-bearing investment vehicles.

12 F. Prior to August 1 of each year, the Board shall develop a
13 written investment plan for the System.

14 G. The Board shall compile a quarterly financial report of all
15 the funds of the System on a fiscal year basis. The report shall be
16 compiled pursuant to uniform reporting standards prescribed by the
17 Oklahoma State Pension Commission for all state retirement systems.
18 The report shall include several relevant measures of investment
19 value, including acquisition cost and current fair market value with
20 appropriate summaries of total holdings and returns. The report
21 shall contain combined and individual rate of returns of the
22 investment managers by category of investment, over periods of time.
23 The Board shall include in the quarterly reports all commissions,
24 fees or payments for investment services performed on behalf of the

1 Board. The report shall be distributed to the Governor, the
2 Oklahoma State Pension Commission, the Legislative Service Bureau,
3 the Speaker of the House of Representatives and the President Pro
4 Tempore of the Senate.

5 H. After July 1 and before October 31 of each year, the Board
6 shall publish widely an annual report presented in simple and easily
7 understood language pursuant to uniform reporting standards
8 prescribed by the Oklahoma State Pension Commission for all state
9 retirement systems. The report shall be submitted to the Governor,
10 the Speaker of the House of Representatives, the President Pro
11 Tempore of the Senate, the Oklahoma State Pension Commission and the
12 members of the System. The annual report shall cover the operation
13 of the System during the past fiscal year, including income,
14 disbursements, and the financial condition of the System at the end
15 of the fiscal year. The annual report shall also contain the
16 information issued in the quarterly reports required pursuant to
17 subsection G of this section as well as a summary of the results of
18 the most recent actuarial valuation to include total assets, total
19 liabilities, unfunded liability or over funded status, contributions
20 and any other information deemed relevant by the Board. The annual
21 report shall be written in such a manner as to permit a readily
22 understandable means for analyzing the financial condition and
23 performance of the System for the fiscal year. The annual financial
24 statements must be audited and filed in accordance with the

1 requirements set forth for financial statement audits in Section
2 212A of Title 74 of the Oklahoma Statutes.

3 I. The Board may retain an attorney licensed to practice law in
4 this state. The attorney shall serve at the pleasure of the Board
5 for such compensation as set by the Board. The Attorney General
6 shall furnish such legal services as may be requested by the Board.

7 J. ~~All~~ Except for the member's name, age, amount of
8 contributions paid in, benefits being paid, amount of credited
9 service and any documents verifying credited service or benefits,
10 all information, documents and copies thereof contained in a
11 member's retirement file shall be given confidential treatment and
12 shall not be made public by the System without the prior written
13 consent of the member to which it pertains, but shall be subject
14 only to court order. Provided, the System, its employees or
15 attorneys, may use such records in defense of any action brought
16 against the System.

17 K. Effective July 1, 1999, the Board is hereby authorized to do
18 all acts and things necessary and proper to carry out the purpose of
19 the System and to make the least costly amendments and changes, if
20 any, as may be necessary to qualify the System under the applicable
21 sections of the Internal Revenue Code of 1986, as amended.

22 L. The Board shall adopt a cost of living adjustment actuarial
23 assumption in its annual actuarial valuation report.

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1 M. The Executive Director and such employees of the System as
2 the Executive Director may designate are hereby authorized to
3 prepare certified copies of records of the System and every such
4 certified copy shall be admissible in any proceeding in any court in
5 like manner as the original thereof.

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

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

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