

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 498

By: Mazzei of the Senate

and

McDaniel (Randy) and  
Wesselhoft of the House

11                                   COMMITTEE SUBSTITUTE

12                   An Act relating to county retirement systems;  
13                   amending 19 O.S. 2011, Sections 952, 956 and 958,  
14                   which relate to certain county retirement systems;  
15                   modifying references; modifying provisions related to  
16                   normal retirement; modifying provisions related to  
17                   crediting of certain military service; providing for  
18                   compliance with the Uniformed Services Employment and  
19                   Reemployment Rights Act of 1994; providing for effect  
20                   of certain resolutions; and providing an effective  
21                   date.

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

23                   SECTION 1.           AMENDATORY           19 O.S. 2011, Section 952, is  
24                   amended to read as follows:

                  Section 952. Every county establishing a retirement fund and  
system under the terms of this act is authorized and directed to

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1 provide for the control and management of such system by resolution  
2 which in addition to other provisions shall provide for: ~~(1) the~~

3 1. The qualifications of the persons eligible for retirement  
4 benefits; ~~(2) the~~

5 2. The minimum age for retirement of employees; ~~(3) the~~

6 3. The limitations of amounts to be paid to persons eligible  
7 for retirement benefits; ~~(4) a~~

8 4. A board of trustees to administer the fund to be selected as  
9 provided for in Section ~~2~~ 952.1 of this ~~act~~ title; ~~(5) the~~

10 5. The amount of contributions to be made by the county and the  
11 amount to be made by the employees; and ~~(6) such~~

12 6. Such rules ~~and,~~ regulations, policies, and procedures as the  
13 board of trustees shall determine necessary for the proper  
14 regulation of the retirement fund and system.

15 Such fund and system shall be known as the "Employees'  
16 Retirement System of \_\_\_\_\_ County, Oklahoma", and by such name  
17 all of its business shall be transacted, all funds handled and all  
18 of its cash and securities and other property held.

19 SECTION 2. AMENDATORY 19 O.S. 2011, Section 956, is  
20 amended to read as follows:

21 Section 956. No member of a county ~~employee~~ retirement system  
22 shall be eligible for retirement benefits under Section 951 et seq.  
23 of this title until such ~~employee~~ member:

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1           1. Has attained the age of sixty-two (62) years and shall have  
2 served for a period of at least fifteen (15) years with said county,  
3 ~~and the last two (2) years of such service shall have been~~  
4 ~~consecutive immediately preceding such retirement; or~~

5           2. Has attained the age of fifty-five (55) years and shall have  
6 served for a period of at least thirty (30) years with said county;  
7 or

8           3. Has attained the age at which the sum of the employee's age  
9 and number of years of service with the county total eighty (80).

10          To be eligible for retirement benefits the employee's service  
11 with the county shall have ceased. Provided, the board of trustees  
12 and the board of county commissioners, by resolution, may allow  
13 retirees to return to work on a part-time basis after the first  
14 month of retirement and continue to be eligible for their retirement  
15 benefits. Provided, that any county employee who shall have  
16 completed fifteen (15) years of service as such county employee, ~~the~~  
17 ~~last two (2) years of which shall have been consecutive,~~ and who, at  
18 the time of completing such fifteen (15) years of service shall not  
19 have reached the age of sixty-two (62) years, may then elect to  
20 retire, such retirement to become effective and all retirement  
21 benefits to begin when such county employee shall have attained the  
22 age of sixty-two (62) years, provided that such election shall be in  
23 writing upon such form as the board of trustees shall direct, and  
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1 such election shall be signed by such employee and filed with the  
2 board of trustees, and any funds paid into the retirement system by  
3 such employee may not thereafter be withdrawn by such employee.  
4 Provided, that when approved by the board of trustees of the county  
5 retirement system and the board of county commissioners of any  
6 county which has provided for a retirement fund and system as  
7 authorized under the provisions of Section 951 of this title, the  
8 board of trustees may lower the mandatory fifteen-year requirement  
9 to not less than five (5) years by a resolution if the following has  
10 occurred:

11 1. Prior to such action, an actuarial report on the system  
12 shall be made by an independent professional actuary qualified as an  
13 "Enrolled actuary" as defined by the Employee Retirement Income  
14 Security Act (ERISA) of 1974, which report shall determine and  
15 declare whether the reduction of the mandatory service requirement  
16 would result in any additional unfunded or accrued liabilities and,  
17 if so, the amount required to make the retirement system actuarially  
18 sound expressed in dollars and in percent of the gross payroll.

19 2. Such report shall be filed with the board of trustees and  
20 with the board of county commissioners and notice of the receipt and  
21 filing of such report be given by the board of county commissioners  
22 by publishing notice thereof in a newspaper of general circulation  
23 in the county. Such report shall be a public document subject to  
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1 examination by any interested person. Any member of the retirement  
2 system or any citizen of the county may, within thirty (30) days  
3 from the date of such publication, file a petition in the district  
4 court of the county in which the retirement system is located to  
5 challenge the validity and accuracy of the actuarial report or any  
6 other action taken in connection therewith, and the court is hereby  
7 vested with jurisdiction to receive evidence and enter a judgment  
8 affirming, modifying or rejecting the actuarial report or any  
9 funding provisions, and such report shall be conformed in accordance  
10 with any final judgment. The costs, including attorney fees, if  
11 any, of such action shall be assessed by the court as it may deem  
12 equitable irrespective of the form of the judgment.

13 3. If the final report determines that additional funding shall  
14 be required to implement any reduction of the mandatory service  
15 requirement, then and in that event affirmative action by the board  
16 of county commissioners, approved by the board of trustees,  
17 providing for the funding of any such changed benefits in an amount  
18 necessary to make said system actuarially sound upon the  
19 implementation of such change shall be established at or prior to  
20 the effective date of such reduction in the mandatory service  
21 requirement.

22 4. If the report reveals no additional funding requirement,  
23 then the board of county commissioners with the approval of the  
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1 board of trustees may lower the mandatory fifteen-year service  
2 requirement as provided in this section without a corresponding or  
3 concurrent funding resolution.

4 5. It is further provided that if the mandatory service credit  
5 is reduced to a period of time less than fifteen (15) years, then  
6 and in that event the retirement benefits shall be correspondingly  
7 reduced by at least an amount equal to six and two-thirds percent (6  
8 2/3%) from that which would have been earned for fifteen (15) years'  
9 service multiplied by the number of years of reduction in the  
10 mandatory service except for those retirees who have eight (8)  
11 years' service and are entitled to disability retirement. The  
12 entitlement to disability retirement and the amount thereof shall  
13 not be affected by this paragraph.

14 6. No person shall be entitled to receive the benefits of a  
15 reduction in the mandatory service requirement who at the time of  
16 such reduction is not then an employee of the county, has been  
17 continuously employed by the county and a member of the county  
18 retirement system for the twenty-four (24) months immediately  
19 preceding the reduction in the mandatory service requirement or  
20 shall have been an employee with twenty-four (24) months immediately  
21 preceding the election by such employee to receive the benefit of  
22 the reduced mandatory service requirement.

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1        Provided further, that, for the purposes of Section 951 et seq.  
2 of this title and the eligibility of employees to participate  
3 therein, employees of levee districts shall be considered county  
4 employees. Retirement benefits, disability benefits and benefits  
5 paid to the surviving spouse shall be calculated on the average of  
6 the income of any three (3) years which shall be the years of  
7 highest income for said employee during participation in said  
8 retirement system.

9        Any ~~employee~~ member of the county retirement system covered by  
10 Section 951 et seq. of this title who shall have completed eight (8)  
11 years of employment with said county and who, by reason of  
12 disability resulting from the performance of his or her duties as  
13 such employee of said county, shall become disabled to such an  
14 extent as to be unable to perform his or her duties as an employee  
15 shall be entitled to disability retirement and to such benefits as  
16 the board of trustees shall determine; provided, however, that the  
17 board of trustees shall find that said disability is total and  
18 permanent, and resulted from the performance of his or her duty as  
19 such employee of the county.

20        Any ~~person~~ member of the county retirement system covered by  
21 Section 951 et seq. of this title who has ~~been a regular county~~  
22 ~~employee for at least one (1) year~~ participated in the system  
23 immediately preceding the time he or she is required, by Act of  
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1 Congress of the United States and/or by order of the President of  
2 the United States, or volunteers to leave the employment of the  
3 county to enter the military service of the United States government  
4 shall receive credit, for the purposes of Section 951 et seq. of  
5 this title, for all actual time so served in full-time military  
6 service, ~~but not to exceed a total of four (4) years in all;~~  
7 ~~provided, however, that to be eligible to receive such credit, the~~  
8 ~~employee shall not withdraw funds previously contributed, as~~  
9 ~~otherwise permitted by the provisions of Section 951 et seq. of this~~  
10 ~~title; provided, further, that neither the employee nor the county~~  
11 ~~shall be required to make further contribution to the retirement~~  
12 ~~fund during the period of military service; and, provided, further,~~  
13 ~~that the credit time allowed, hereby, shall not be considered in~~  
14 ~~lieu of the two (2) years' consecutive employment required by this~~  
15 ~~section, as a prerequisite to receiving retirement benefits~~  
16 hereunder to the extent required by Internal Revenue Code Section  
17 414(u) and the Uniformed Services Employment and Reemployment Rights  
18 Act of 1994. Provided further, that if any county employee who  
19 shall have completed at least fifteen (15) years of service to any  
20 county covered by Section 951 et seq. of this title and who has not  
21 yet reached the age of retirement shall die, then, and in such  
22 event, the surviving spouse of said county employee shall receive  
23 retirement benefits in the amount of sixty-six and two-thirds

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1 percent (66 2/3%) of whatever benefits would otherwise be received  
2 by said county employee under Section 951 et seq. of this title at  
3 the age of sixty-two (62) years, such retirement benefits to the  
4 surviving spouse to begin on the date said deceased county employee  
5 would have reached the age of sixty-two (62) years.

6        Provided further, that if any county employee receiving or  
7 eligible to receive retirement benefits pursuant to the provisions  
8 of Section 951 et seq. of this title shall die, then, and in such  
9 event, the surviving spouse of said person shall receive retirement  
10 benefits in the amount of sixty-six and two-thirds percent (66 2/3%)  
11 of whatever benefits the deceased was receiving or was entitled to  
12 receive for the remainder of the natural life of said surviving  
13 spouse. This provision shall apply to anyone who has qualified for  
14 retirement, even though they may not have retired or are deceased.  
15 Said provision also shall include any employees who have retired  
16 after January 1, 1970, and later shall become deceased, then in such  
17 event the surviving spouse shall receive sixty-six and two-thirds  
18 percent (66 2/3%). This shall not apply to persons who have retired  
19 prior to January 1, 1970, or their spouses.

20        Provided further, that the board of trustees and the board of  
21 county commissioners may elect to amend the surviving spouse benefit  
22 provision to increase the surviving spouse retirement benefit to as  
23 much as one hundred percent (100%).

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1        Provided further, that the board of trustees and the board of  
2 county commissioners may elect to amend the benefit provisions to  
3 allow any vested employee who is otherwise not eligible to retire  
4 because such employee has not satisfied any of the age requirements  
5 the option of retiring as early as age fifty-five (55). However,  
6 such employee shall have met the minimum service requirements  
7 approved by the board of trustees of the county retirement system  
8 and the board of county commissioners. If any employee elects such  
9 an option, the employee shall receive an actuarially reduced  
10 benefit.

11        SECTION 3.        AMENDATORY        19 O.S. 2011, Section 958, is  
12 amended to read as follows:

13        Section 958. The board of county commissioners of any county  
14 establishing a retirement fund and system under the provisions of  
15 this act is hereby authorized and empowered to make effective by  
16 resolution all provisions necessary to accomplish the purposes of  
17 this act, and any amendments hereafter provided. Any such  
18 resolutions properly made in order to ensure compliance with  
19 qualification requirements for the retirement plan shall take  
20 precedence over any provisions of this act.

21        SECTION 4. This act shall become effective November 1, 2013.

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23 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND FINANCIAL  
24 SERVICES, dated 03/25/2013 - DO PASS, As Amended.