An Act

ENROLLED HOUSE
BILL NO. 1376

By: McDaniel (Randy) of the House

and

Brinkley of the Senate

An Act relating to public retirement systems; amending Section 2, as amended by Section 2, Chapter 419, O.S.L. 2014 (74 O.S. Supp. 2014, Section 935.2), Section 4, Chapter 375, O.S.L. 2014 (74 O.S. Supp. 2014, Section 935.4), Section 5, Chapter 375, O.S.L. 2014 (74 O.S. Supp. 2014, Section 935.5), Section 7, Chapter 375, O.S.L. 2014 (74 O.S. Supp. 2014, Section 935.7), and Section 11, Chapter 375, O.S.L. 2014 (74 O.S. Supp. 2014, Section 935.11), which relate to the Retirement Freedom Act; defining certain position; defining beginning service date; providing for continuation of participation in defined benefit plan based upon certain employment; requiring participation in defined contribution plan for certain employees; defining when certain employees may participate; requiring certain participation to be binding; providing for employer to determine certain employees status; raising minimum employee contribution rate; defining employer minimum contribution rate; modifying provisions related to qualified domestic orders; and providing an effective date.

SUBJECT: Public Employees Retirement System

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

SECTION 1. AMENDATORY Section 2, Chapter 375, O.S.L. 2014, as amended by Section 2, Chapter 419, O.S.L. 2014 (74 O.S. Supp. 2014, Section 935.2), is amended to read as follows:

Section 935.2 A. ~~Effective November 1, 2015, the~~ The Oklahoma Public Employees Retirement System (System) shall establish a defined contribution system for those persons who first become employed in a full-time equivalent position or a position which is less than full-time but more than half-time position and which qualifies for employee benefits, including but not limited to, health insurance and leave time by any participating employer of the System, as defined by paragraph (25) of Section 902 of Title 74 of the Oklahoma Statutes, on or after November 1, 2015. Any person first licensed by the Department of Rehabilitation Services as a vending stand operator or managing operator on or after November 1, 2015, as defined by Section 929 of Title 74 of the Oklahoma Statutes, shall be eligible for participation in the defined contribution system.

B. The provisions of subsection A of this section and the provisions of this act shall not be applicable to employees who are initially employed in the positions described in divisions (i), (ii) and (iii) of subparagraph (d) of paragraph (24) of Section 902 of Title 74 of the Oklahoma Statutes, district attorneys, assistant district attorneys or other employees of the district attorney's office, and any employees of a county, county elected officials, county hospital, city or town, conservation district, circuit engineering district, and any public or private trust in which a county, city or town participates and is the primary beneficiary.

C. An employee described by subsection A of this section shall become a participant in the defined contribution system and the employee shall not accrue any service credit in the Oklahoma Public Employees Retirement System as established pursuant to Section 901 et seq. of Title 74 of the Oklahoma Statutes.

D. Employees who participate in the defined contribution system shall be deemed to begin service in the defined contribution system on the ~~entry date of the employee~~ first day of the month following employment.

E. An employee who begins participating in the defined benefit plan on or after November 1, 2015, in one of the positions described in subsection B of this section, shall continue to participate in the defined benefit plan only as long as he or she continues to be employed in a position described in subsection B of this section.

F. Any employee employed on or after November 1, 2015, by the Legislative Service Bureau, State Senate or House of Representatives

for the full duration of a regular legislative session shall be eligible for membership only in the defined contribution system regardless of classification as a temporary employee. The temporary session employee may participate in the defined contribution system during the regular legislative session at the option of the employee. Once the temporary session employee makes a choice to participate, the choice shall be binding for all future legislative sessions during which the temporary session employee is employed. For purposes of this subparagraph, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the employer.

SECTION 2. AMENDATORY Section 4, Chapter 375, O.S.L. 2014 (74 O.S. Supp. 2014, Section 935.4), is amended to read as follows:

Section 935.4 A. Employee contributions to the defined contribution retirement system shall consist of a minimum of ~~three percent (3.0%)~~ four and five-tenths percent (4.5%) of compensation.

B. Employee contributions to the defined contribution retirement system that are eligible for an employer match shall ~~consist of a maximum of seven percent (7.0%) of compensation~~ not exceed a percentage, based on the employee's compensation, which would exceed the maximum amount allowed pursuant to Section 415 of the Internal Revenue Code of 1986, as amended.

SECTION 3. AMENDATORY Section 5, Chapter 375, O.S.L. 2014 (74 O.S. Supp. 2014, Section 935.5), is amended to read as follows:

Section 935.5 A. ~~Employers~~ Except as otherwise provided by subsection B of this section, employers of employees who become participants in the defined contribution retirement system shall match the employee contribution paid on a monthly or more frequent basis ~~according to the following schedule~~ at the rate of six percent (6.0%) based on the same compensation amount used to compute the employee contribution amount~~:~~

~~Employee Contribution Rate~~	~~Employer Match~~
~~3.0%~~	~~3.0%~~
~~4.0%~~	~~4.0%~~

~~5.0%~~ ~~5.0%~~

~~6.0%~~ ~~6.0%~~

~~7.0%~~ ~~7.0%~~.

B. If an employee selects a contribution rate of seven percent (7.0%) or more, but not higher than allowed pursuant to the maximum annual contribution limit prescribed by Section 415 of the Internal Revenue Code of 1986, as amended, the employer matching amount shall be seven percent (7.0%).

C. The initial ~~three-percent~~ four and five-tenths percent (4.5%) employee contribution shall be the only mandatory contribution of an employee participating in the defined contribution retirement system created by this act. These funds shall be placed by the System in either a 401(a) plan or a 457(b) plan, to be determined by the Board to maintain the plan consistent with the Internal Revenue Code. Any employee contributions eligible to be matched under this section over the ~~three-percent~~ four and five-tenths percent (4.5%) initial contribution shall be considered voluntary deferrals of compensation and placed in a 457(b) plan. All employer matching funds shall be placed in a 401(a) plan.

~~C.~~ D. Any contribution rate that is more than the ~~three-percent~~ four and five-tenths percent (4.5%) rate can be chosen by the participating employee upon the employee's initial participation, and can only be changed once per calendar year during an option period as the Board determines. The employee contribution rate chosen shall continue until the next option period.

~~D.~~ E. The employer match as set forth in subsection A of this section may be increased at any time by the Legislature without affecting the then-existing rights of participating employees and beneficiaries in order to encourage participating employees to accumulate deferred income reserves for themselves and their dependents. The employer match may be decreased at any time by the Legislature without affecting the then-existing rights of participating employees and beneficiaries in order to provide funding as may be needed to reduce the unfunded liabilities of the defined benefit plan as set forth in Section 901 et seq. of ~~Title 74 of the Oklahoma Statutes~~ this title, but shall not be less than ~~three percent (3.0%)~~ six percent (6.0%) for any year during which the defined contribution plan is maintained.

SECTION 4. AMENDATORY Section 7, Chapter 375, O.S.L. 2014 (74 O.S. Supp. 2014, Section 935.7), is amended to read as follows:

Section 935.7 A. Participating employees shall at all times be vested at one hundred percent (100%) of their accounts containing solely their employee contributions, and the gains or losses on these contributions. Participating employees will have investment discretion over these accounts within the available options offered by the Board.

B. Participating employees shall be vested with respect to the employer matching amounts, and the gains or losses on these funds, deposited into their defined contribution system account or accounts according to the following schedule based on years of participating service:

Year 1	20%
Year 2	40%
Year 3	60%
Year 4	80%
Year 5 and thereafter	100%

C. Participating employees will have investment discretion over all employer contributions.

D. For purposes of determining a participating employee's right to withdraw employer matching contributions and any investment gains upon such employer contribution matching amounts, the vesting percentages apply at the end of each full year of service as described in subsection B of this section.

E. For participating employees who do not select any investment options, the OPERS Board will establish default investment options for the contributions received from participating employees and default investment options for matching employer contributions.

F. To the extent that participants leave employment and have not vested in all of the employer contributions, the nonvested employer contributions, including any gains or losses, shall be immediately forfeited to the 401(a) plan and may be used to offset

costs of administering the plan. Upon reemployment with an employer and satisfying the eligibility requirements to become a participant, the reemployed participant shall receive credit for previous service and be vested at the same percentage the participant was vested when service was previously terminated. However, under no circumstances shall the participant be entitled to any previously forfeited employer contributions.

SECTION 5. AMENDATORY Section 11, Chapter 375, O.S.L. 2014 (74 O.S. Supp. 2014, Section 935.11), is amended to read as follows:

Section 935.11 A. Except as otherwise provided by this section or in subsection D of Section ~~5~~ 935.5 of this ~~act~~ title, no alteration, amendment, or repeal of this act shall affect the then-existing rights of participating employees and beneficiaries, but shall be effective only as to rights which would otherwise accrue hereunder as a result of services rendered by an employee after such alteration, amendment, or repeal. Any benefits, fund, property, or rights created by or accruing to any person under the provisions of this act shall not be subject to execution, garnishment or attachment, or any other process or claim whatsoever, and shall be unassignable, except as specifically provided by this section. Notwithstanding the foregoing, the Board may offset any amounts held by a participant in the plan or beneficiary to pay a judgment or settlement against a participating employee or beneficiary for a crime involving the System, for a fraud or breach of the participating employee's fiduciary duty to the System, or for funds or monies incorrectly paid to a participating employee or a beneficiary, provided such offset is in accordance with the requirements of Section 401(a)(13) or similar provisions of the Internal Revenue Code. The offset applies to any assets held in the plan which may otherwise be payable to a participating employee or beneficiary from the plan administered by the Board.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a participating employee or provision of support for a minor child or children and which creates or recognizes the existence of the right

of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the funds payable with respect to a participant in the plan.

3. For purposes of the payment of marital property, to qualify as an alternate payee a spouse or former spouse must have been married to the related participating employee for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the Board and the related participating employee only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

a. the name and last-known mailing address (if any) of the participating employee and the name and mailing address of the alternate payee covered by the order,

b. the amount or percentage of the participating employee's funds or assets to be paid by the System to the alternate payee,

c. the number of payments or period to which such order applies,

d. the characterization of the benefit as to marital property rights or child support, and

e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,

b. does not require the System to provide increased benefits, and

c. does not require the payment of funds or assets to an alternate payee which are required to be paid to

another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

7. ~~A qualified domestic order shall not require payment of funds or assets to an alternate payee prior to the actual permitted distribution date or withdrawal of the related participating employee.~~

~~8. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related participating employee.~~

~~9.~~ This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A., Section 1001 et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

~~10.~~ 8. The Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

~~11.~~ 9. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 6. This act shall become effective November 1, 2015.

Passed the House of Representatives the 5th day of May, 2015.

_____
Presiding Officer of the House
of Representatives

Passed the Senate the 20th day of April, 2015.

_____
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

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January 21, 2015

Representative R. McDaniel
Room 428

Re: RBH No. 5321

RBH No. 5321 changes the minimum employee contribution rate and the state matching rate for the defined contribution portion of OPERS. The bill also makes suggestion as to the investment options offered to the participants.

RBH No. 5321 is a nonfiscal retirement bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act.

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February 17, 2015

Representative Randy McDaniel
Room 438

Re: Proposed Committee Substitute for House Bill No. 1376
RBH No. 6816

Proposed Committee Substitute for House Bill No. 1376 clarifies the edibility requirements and entry date for the OPERS defined contribution plan. It also defines the benefits payable under Domestic Relations Order.

Proposed Committee Substitute for House Bill No. 1376 is a nonfiscal retirement bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act.

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April 2, 2015

Senator Brinkley
Room 238

Re: Engrossed Senate Amendment for Engrossed House Bill No. 1376
RBH No. 7038

Engrossed Senate Amendment for Engrossed House Bill No. 1376 increases the minimum employee contribution in the Defined Contribution portion of OPERS to 4.5% of compensation. The maximum employee contribution is increased to the maximum amount under Section 415 of the Internal Revenue Code. The employer match the employee contributions starting at 6% of compensation but not to exceed 7% of compensation.

Employees employed after November 1, 2015 by the Legislative Service Bureau, the State Senate and the State House of Representatives for the full duration of the regular session shall be eligible for membership only in the defined contribution system.

The bill also contains language pertaining Domestic Relations Orders.

Engrossed Senate Amendment for Engrossed House Bill No. 1376 is a nonfiscal retirement bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act.

Thomas E. Cummins

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