

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

HOUSE BILL 1376

By: McDaniel (Randy)

AS INTRODUCED

An Act relating to public retirement systems; amending Sections 2, as amended by Section 2, Chapter 419, O.S.L. 2014, 4, 5, 9 and 11, Chapter 375, O.S.L. 2014 (74 O.S. Supp. 2014, Sections 935.2, 935.4, 935.5, 935.9 and 935.11), which relate to the Retirement Freedom Act; modifying provisions related to eligible employees; modifying provision related to beginning service date; modifying provisions related to employee contribution rate; modifying minimum employee contribution rate; providing for employee contribution rates based upon Section 415 of Internal Revenue Code of 1986, as amended; prescribing maximum employee contribution rate; modifying provisions related to employer matching amounts; providing for employee contribution amounts based upon certain years of participation; prescribing maximum employer matching amount; modifying provisions related to investment options; requiring certain consideration to certain options; modifying provisions related to qualified domestic orders; and providing an effective date.

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:

1 Section 935.2 A. Effective November 1, 2015, the Oklahoma
2 Public Employees Retirement System (System) shall establish a
3 defined contribution system for those persons who first become
4 employed in a full-time equivalent position or a position which is
5 less than full-time but more than half-time position and which
6 qualifies for employee benefits, including but not limited to,
7 health insurance and leave time, by any participating employer of
8 the System, as defined by paragraph (25) of Section 902 of Title 74
9 of the Oklahoma Statutes, on or after November 1, 2015. Any person
10 first licensed by the Department of Rehabilitation Services as a
11 vending stand operator or managing operator on or after November 1,
12 2015, as defined by Section 929 of Title 74 of the Oklahoma
13 Statutes, shall be eligible for participation in the defined
14 contribution system.

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

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

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

10 SECTION 2. AMENDATORY Section 4, Chapter 375, O.S.L.
11 2014 (74 O.S. Supp. 2014, Section 935.4), is amended to read as
12 follows:

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

16 B. Employee contributions to the defined contribution
17 retirement system that are eligible for an employer match shall
18 ~~consist of a maximum of seven percent (7.0%) of compensation not~~
19 exceed a percentage, based on the employee's compensation, which
20 would cause the total employee contributions to the defined
21 contribution account to exceed the maximum amount allowed pursuant
22 to Section 415 of the Internal Revenue Code of 1986, as amended.
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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 during the first five (5) years of the employee's participation in the defined contribution plan on a monthly or more frequent basis according to the following schedule at the rate of six percent (6%) 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:

1. Selects a contribution rate in excess of four and five-tenths percent (4.5%), but has less than five (5) years of participation in the defined contribution system, the employee contribution rate shall be governed by the maximum contribution limit prescribed by Section 415 of the Internal Revenue Code of 1986, as amended, and the employee contribution rate shall be

1 determined based upon the combination of such applicable limit and
2 the employee's compensation; or

3 2. Has at least five (5) years of participation in the defined
4 contribution system, the employee may select an employee
5 contribution rate of seven percent (7.0%) or more, but not higher
6 than allowed pursuant to the maximum annual contribution limit
7 prescribed by Section 415 of the Internal Revenue Code of 1986, as
8 amended. If an employee elects a contribution rate of seven percent
9 (7.0%) or more pursuant to the provisions of this subsection, the
10 employer matching amount shall be seven percent (7.0%).

11 C. The initial ~~three percent~~ four and five-tenths percent
12 (4.5%) employee contribution shall be the only mandatory
13 contribution of an employee participating in the defined
14 contribution retirement system created by this act. These funds
15 shall be placed by the System in either a 401(a) plan or a 457(b)
16 plan, to be determined by the Board to maintain the plan consistent
17 with the Internal Revenue Code. Any employee contributions eligible
18 to be matched under this section over the ~~three percent~~ four and
19 five-tenths percent (4.5%) initial contribution shall be considered
20 voluntary deferrals of compensation and placed in a 457(b) plan.
21 All employer matching funds shall be placed in a 401(a) plan.

22 ~~C. D.~~ D. Any contribution rate that is more than the ~~three percent~~
23 four and five-tenths percent (4.5%) rate can be chosen by the
24 participating employee upon the employee's initial participation,

1 and can only be changed once per calendar year during an option
2 period as the Board determines. The employee contribution rate
3 chosen shall continue until the next option period.

4 ~~D.~~ E. The employer match as set forth in subsection A of this
5 section may be increased at any time by the Legislature without
6 affecting the then-existing rights of participating employees and
7 beneficiaries in order to encourage participating employees to
8 accumulate deferred income reserves for themselves and their
9 dependents. The employer match may be decreased at any time by the
10 Legislature without affecting the then-existing rights of
11 participating employees and beneficiaries in order to provide
12 funding as may be needed to reduce the unfunded liabilities of the
13 defined benefit plan as set forth in Section 901 et seq. of Title 74
14 of the Oklahoma Statutes, but shall not be less than ~~three percent~~
15 ~~(3.0%)~~ six percent (6%) for any year during which the defined
16 contribution plan is maintained.

17 SECTION 4. AMENDATORY Section 9, Chapter 375, O.S.L.
18 2014 (74 O.S. Supp. 2014, Section 935.9), is amended to read as
19 follows:

20 Section 935.9 A. The Board of Trustees shall contract with one
21 or more business entities in order to create a range of choices
22 regarding investment of funds deposited into defined contribution
23 system accounts. The investment options shall be substantially
24 similar to the options provided to members of the Oklahoma Public

1 Employees Retirement System that maintain a Deferred Savings
2 Incentive Plan account as offered by the System pursuant to the
3 provisions of the Deferred Savings Incentive Plan. The Board of
4 Trustees shall give special consideration to the offering of
5 investment options to participants of the plan to at least five (5)
6 low-fee index funds and five (5) target date funds.

7 B. In selecting investment options for participants in the
8 plan, the Board shall give due consideration to offering investment
9 options provided by business entities that provide guaranteed
10 lifetime income in retirement such as annuities, guaranteed
11 investment contracts, or similar products. The Board may amend any
12 of its existing contracts with its current service providers to
13 perform substantially the same type of service the provider is
14 currently performing for the Board, in order to facilitate the
15 timely introduction of the new defined contribution system created
16 by this act. Thereafter, the contracting process for the selection
17 of service providers carrying out duties related to the
18 administration of the plan shall be the same as the selection
19 process for other providers selected by the Board under subsection D
20 of Section 909.1 of Title 74 of the Oklahoma Statutes.

21 SECTION 5. AMENDATORY Section 11, Chapter 375, O.S.L.
22 2014 (74 O.S. Supp. 2014, Section 935.11), is amended to read as
23 follows:
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1 Section 935.11 A. Except as otherwise provided by this section
2 or in subsection D of Section 5 of this act, no alteration,
3 amendment, or repeal of this act shall affect the then-existing
4 rights of participating employees and beneficiaries, but shall be
5 effective only as to rights which would otherwise accrue hereunder
6 as a result of services rendered by an employee after such
7 alteration, amendment, or repeal. Any benefits, fund, property, or
8 rights created by or accruing to any person under the provisions of
9 this act shall not be subject to execution, garnishment or
10 attachment, or any other process or claim whatsoever, and shall be
11 unassignable, except as specifically provided by this section.

12 Notwithstanding the foregoing, the Board may offset any amounts held
13 by a participant in the plan or beneficiary to pay a judgment or
14 settlement against a participating employee or beneficiary for a
15 crime involving the System, for a fraud or breach of the
16 participating employee's fiduciary duty to the System, or for funds
17 or monies incorrectly paid to a participating employee or a
18 beneficiary, provided such offset is in accordance with the
19 requirements of Section 401(a)(13) or similar provisions of the
20 Internal Revenue Code. The offset applies to any assets held in the
21 plan which may otherwise be payable to a participating employee or
22 beneficiary from the plan administered by the Board.

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

4 2. The term "qualified domestic order" means an order issued by
5 a district court of this state pursuant to the domestic relation
6 laws of the State of Oklahoma which relates to the provision of
7 marital property rights to a spouse or former spouse of a
8 participating employee or provision of support for a minor child or
9 children and which creates or recognizes the existence of the right
10 of an alternate payee, or assigns to an alternate payee the right,
11 to receive a portion of the funds payable with respect to a
12 participant in the plan.

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

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

22 5. A qualified domestic order shall clearly specify:
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- 1 a. the name and last-known mailing address (if any) of
2 the participating employee and the name and mailing
3 address of the alternate payee covered by the order,
4 b. the amount or percentage of the participating
5 employee's funds or assets to be paid by the System to
6 the alternate payee,
7 c. the number of payments or period to which such order
8 applies,
9 d. the characterization of the benefit as to marital
10 property rights or child support, and
11 e. each plan to which such order applies.

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

- 14 a. does not require the System to provide any type or
15 form of benefit, or any option not otherwise provided
16 under state law as relates to the System,
17 b. does not require the System to provide increased
18 benefits, and
19 c. does not require the payment of funds or assets to an
20 alternate payee which are required to be paid to
21 another alternate payee pursuant to another order
22 previously determined to be a qualified domestic order
23 or an order recognized by the System as a valid order
24 prior to the effective date of this act.

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

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

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

13 ~~10.~~ 8. The Board shall promulgate such rules as are necessary
14 to implement the provisions of this subsection.

15 ~~11.~~ 9. An alternate payee who has acquired beneficiary rights
16 pursuant to a valid qualified domestic order must fully comply with
17 all provisions of the rules promulgated by the Board pursuant to
18 this subsection in order to continue receiving his or her benefit.

19 SECTION 6. This act shall become effective November 1, 2015.
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21 55-1-5321 MAH 01/21/15
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Thomas E. Cummins Consulting Actuary, Inc.

2512 E. 71st Street, Suite D
(918)492.9658 Fax (918)492.9659
Tulsa, OK 74136

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.

Thomas E. Cummins

Thomas E. Cummins, MAAA