

**HOUSE OF REPRESENTATIVES - FLOOR VERSION**

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3994

By: Wright of the House

and

**Jech** of the SenateAS INTRODUCED

An Act relating to the Teachers' Retirement System of Oklahoma; amending 62 O.S. 2011, Section 3103, as last amended by Section 2, Chapter 245, O.S.L. 2018 (62 O.S. Supp. 2019, Section 3103), which relates to the Oklahoma Pension Legislation Actuarial Analysis Act; modifying definitions; amending 70 O.S. 2011, Section 17-116.10, as last amended by Section 2, Chapter 270, O.S.L. 2017 (70 O.S. Supp. 2019, Section 17-116.10), which relates to postretirement earnings limitations; modifying certain dollar amount with respect to earnings; and providing effective dates.

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

SECTION 1. AMENDATORY 62 O.S. 2011, Section 3103, as last amended by Section 2, Chapter 245, O.S.L. 2018 (62 O.S. Supp. 2019, Section 3103), is amended to read as follows:

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

1        1. "Amendment" means any amendment, including a substitute  
2 bill, made to a retirement bill by any committee of the House or  
3 Senate, any conference committee of the House or Senate or by the  
4 House or Senate;

5        2. "RB number" means that number preceded by the letters "RB"  
6 assigned to a retirement bill by the respective staffs of the  
7 Oklahoma State Senate and the Oklahoma House of Representatives when  
8 the respective staff office prepares a retirement bill for a member  
9 of the Legislature;

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

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

19       5. "Nonfiscal retirement bill" means a retirement bill:

- 20           a.    which does not affect the cost or funding factors of a  
21                retirement system, or  
22           b.    which affects such factors only in a manner which does  
23                not:

- (1) grant a benefit increase under the retirement system affected by the bill,
  - (2) create an actuarial accrued liability for or increase the actuarial accrued liability of the retirement system affected by the bill, or
  - (3) increase the normal cost of the retirement system affected by the bill,
- c. which authorizes the purchase by an active member of the retirement system, at the actuarial cost for the purchase as computed pursuant to the statute in effect on the effective date of the measure allowing such purchase, of years of service for purposes of reaching a normal retirement date in the applicable retirement system, but which cannot be used in order to compute the number of years of service for purposes of computing the retirement benefit for the member,
- d. which provides for the computation of a service-connected disability retirement benefit for members of the Oklahoma Law Enforcement Retirement System pursuant to Section 2-305 of Title 47 of the Oklahoma Statutes if the members were unable to complete twenty (20) years of service as a result of the disability,
- e. which requires membership in the defined benefit plan authorized by Section 901 et seq. of Title 74 of the

Oklahoma Statutes for persons whose first elected or appointed service occurs on or after November 1, 2018, if such persons had any prior service in the Oklahoma Public Employees Retirement System prior to November 1, 2015, ~~or~~

f. which provides for a one-time increase in retirement benefits if the increase in retirement benefits is not a permanent increase in the gross annual retirement benefit payable to a member or beneficiary, occurs only once pursuant to a single statutory authorization and does not exceed:

(1) the lesser of two percent (2%) of the gross annual retirement benefit of the member or One Thousand Dollars (\$1,000.00) and requires that the benefit may only be provided if the funded ratio of the affected retirement system would not be less than sixty percent (60%) but not greater than eighty percent (80%) after the benefit increase is paid,

(2) the lesser of two percent (2%) of the gross annual retirement benefit of the member or One Thousand Two Hundred Dollars (\$1,200.00) and requires that the benefit may only be provided if the funded ratio of the affected retirement

1 system would be greater than eighty percent (80%)  
2 but not greater than one hundred percent (100%)  
3 after the benefit increase is paid,

4 (3) the lesser of two percent (2%) of the gross  
5 annual retirement benefit of the member or One  
6 Thousand Four Hundred Dollars (\$1,400.00) and  
7 requires that the benefit may only be provided if  
8 the funded ratio of the affected retirement  
9 system would be greater than one hundred percent  
10 (100%) after the benefit increase is paid, or

11 (4) the greater of two percent (2%) of the gross  
12 annual retirement benefit of the volunteer  
13 firefighter or One Hundred Dollars (\$100.00) for  
14 persons who retired from the Oklahoma  
15 Firefighters Pension and Retirement System as  
16 volunteer firefighters and who did not retire  
17 from the Oklahoma Firefighters Pension and  
18 Retirement System as a paid firefighter.

19 As used in this subparagraph, "funded ratio" means the  
20 figure derived by dividing the actuarial value of  
21 assets of the applicable retirement system by the  
22 actuarial accrued liability of the applicable  
23 retirement system, or

1           g. which modifies the post-retirement earnings limitation  
2           applicable to the Teachers' Retirement System of  
3           Oklahoma as provided by Section 2 of this act.

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;

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 2.        AMENDATORY        70 O.S. 2011, Section 17-116.10,  
9 as last amended by Section 2, Chapter 270, O.S.L. 2017 (70 O.S.  
10 Supp. 2019, Section 17-116.10), is amended to read as follows:

11        Section 17-116.10 A. Subject to the requirements of Section 6-  
12 101.2 of this title and any other applicable requirements of law, a  
13 member may enter into postretirement employment with a public school  
14 of Oklahoma and still receive monthly retirement benefits subject to  
15 the following limitations:

16        1. A retired member is not eligible to be employed by the  
17 public schools of Oklahoma, in any capacity, for sixty (60) calendar  
18 days between the retiree's last day of preretirement public  
19 education employment and any postretirement public education  
20 employment. For purposes of this section, the term "last day of  
21 preretirement employment" shall mean the last day the employee is  
22 required to be physically present on the job to complete the terms  
23 of the employment contract or agreement. An employee on paid leave  
24 is still considered to be employed for purposes of this section.

1 Employment under any conditions during this time, volunteer services  
2 for the purpose of obtaining a paid position at a later date, or  
3 payment at a later time for services performed during this time  
4 period shall cause the forfeiture of all retirement benefits  
5 received during the period;

6 2. Unless otherwise provided in paragraph 3 of this subsection,  
7 earnings from the public schools may not exceed one-half (1/2) of  
8 the member's final average salary used in computing retirement  
9 benefits, or the Earnings Limitation for employees allowed by the  
10 Social Security Administration, whichever is less. For retired  
11 members under the age of sixty-two (62) years, the limit on allowed  
12 earnings from the public schools of Oklahoma for employment for the  
13 performance of duties ordinarily performed by classified or  
14 nonclassified personnel shall be the lesser of ~~Fifteen Thousand~~  
15 ~~Dollars (\$15,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00) or  
16 one-half (1/2) of the member's final average salary used in  
17 computing retirement benefits unless the earnings limitation allowed  
18 by the Social Security Administration would be greater than ~~Fifteen~~  
19 ~~Thousand Dollars (\$15,000.00)~~ Twenty-five Thousand Dollars  
20 (\$25,000.00). For retired members sixty-two (62) years of age or  
21 older the limit on allowed earnings from the public schools of  
22 Oklahoma for the performance of duties ordinarily performed by  
23 classified or nonclassified personnel shall be the lesser of Thirty  
24 Thousand Dollars (\$30,000.00) or one-half (1/2) of the member's



1 final average salary used in computing retirement benefits. For  
2 purposes of this paragraph, the following shall apply:

- 3       a.   earnings shall mean "regular annual compensation" as  
4           defined in paragraph (25) of Section 17-101 of this  
5           title, and shall include any payment by a public  
6           school for services rendered by a retired member who  
7           is employed for any purpose whatsoever. Supplemental  
8           retirement payments paid by a former public school  
9           employer pursuant to subsection 9 of Section 17-105 of  
10          this title or other state law shall not be considered  
11          as earnings,
- 12       b.   the Earnings Limitation for employees allowed by the  
13           Social Security Administration to workers between the  
14           age of sixty-two (62) years and sixty-five (65) years  
15           shall apply to retired members below the age of sixty-  
16           two (62) years,
- 17       c.   the limit on allowed earnings from the public schools  
18           shall be automatically adjusted effective the first  
19           day of January of each year to reflect the current  
20           Earnings Limitation for employees as determined from  
21           time to time by the Social Security Administration,
- 22       d.   the earnings limit for the calendar year in which a  
23           member retires shall be one-twelfth (1/12) of the  
24           annual limit multiplied by the number of months the

1 member is eligible to work and receive payments from  
2 the public schools of Oklahoma,

3 e. earnings in excess of the maximum limit on allowed  
4 earnings from public schools of Oklahoma shall result  
5 in a loss of future retirement benefits for the year  
6 the postretirement employment was performed of One  
7 Dollar (\$1.00) for each One Dollar (\$1.00) earned over  
8 the maximum allowed earnings amount,

9 f. for those members age seventy (70) years and over, the  
10 earnings in excess of the maximum limit allowed  
11 earnings from public schools of Oklahoma shall be one-  
12 half (1/2) the member's final average salary used in  
13 computing retirement benefits. However, any retired  
14 member receiving benefits from the Retirement System  
15 who reached age seventy (70) years prior to July 1,  
16 1991, shall not be restricted by the earnings limits  
17 pursuant to this subparagraph until January 1, 1994.  
18 To qualify for the provisions of this subparagraph,  
19 the member must be employed less than one-half (1/2)  
20 time compared to other full-time employees in similar  
21 positions;

22 3. Notwithstanding paragraph 2 of this subsection, a retired  
23 classified or nonclassified member who has been retired for thirty-  
24 six (36) or more months and who is employed by a public school to

1 perform duties ordinarily performed by classified or nonclassified  
2 personnel shall be able to receive annualized earnings from the  
3 public school with no reduction in retirement benefits regardless of  
4 the amount of annualized earnings. For a period of three (3) years  
5 beginning July 1, 2017, members who have retired as of July 1, 2017,  
6 as active classroom teachers, who have been retired and receiving a  
7 benefit for at least one (1) year, and who have not been employed by  
8 any public school during that one-year period, shall be eligible to  
9 be reemployed as an active classroom teacher in common or career  
10 tech school districts, with no limitations on earnings. The one-  
11 year period starts with the retiree's last day of preretirement  
12 public education employment. Members returning under this section  
13 shall not be subject to any earning limitations following the end of  
14 the three-year period described in this paragraph. Members  
15 returning under this section shall only be employed pursuant to a  
16 temporary contract; and

17 4. A member shall be considered to be employed by a school  
18 district to perform the duties ordinarily performed by classified or  
19 nonclassified personnel if the member is hired by the school  
20 district in the member's individual capacity to perform the duties  
21 or if the member performs the duties through employment with a  
22 proprietorship, partnership, corporation, limited liability company  
23 or partnership, or any other business structure that has agreed or  
24 contracted to provide the services to the school district.

1 B. A public school district that employs a retired member shall  
2 be required to make contributions to the System for the retired  
3 member in an amount as required in Section 17-108.1 and in paragraph  
4 3 of subsection B of Section 17-116.2 of this title.

5 C. For purposes of this section, postretirement employment of  
6 less than one thousand (1,000) hours per year with the Governor, the  
7 State Senate, the House of Representatives or the Legislative  
8 Service Bureau shall not be considered as postretirement employment  
9 with a public school of Oklahoma.

10 D. The Board of Trustees of the Teachers' Retirement System of  
11 Oklahoma shall promulgate such rules as are necessary to implement  
12 the provisions of this section.

13 E. A member who has entered into postretirement employment with  
14 a participating employer of the Teachers' Retirement System of  
15 Oklahoma must fully comply with all the provisions of the rules  
16 promulgated by the Board of Trustees pursuant to this section in  
17 order to continue receiving his or her monthly retirement benefit.

18 SECTION 3. Section 1 of this act shall become effective October  
19 1, 2020.

20 SECTION 4. Section 2 of this act shall become effective  
21 November 1, 2020.

22  
23 COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND  
24 PENSIONS, dated 02/19/2020 - DO PASS, As Coauthored.

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January 15, 2020

Representative Harold Wright  
Room 411

Re: RBH No. 10734

This bill changes the OPLAA definition of a fiscal retirement bill to allow the change of the earnings limitation for OTRS retired participants and continue to receive retirement benefits.

This bill increases the maximum amount a retired OTRS participant who is under the age 62 to \$25,000 per year and continue to receive pension benefits from OTRS.  
The current limit is \$15,000 per year.

RBH No. 10734 is non fiscal bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act as the result of the change in the definition of a fiscal retirement bill.

I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

*Thomas E. Cummins*

Thomas E. Cummins, MAAA