

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 1246

By: McBride and Hasenbeck

AS INTRODUCED

An Act relating to the Teachers' Retirement System of Oklahoma; 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. 2018, Section 17-116.10), which relates to postretirement earnings limitations; modifying provisions with respect to certain employees of the State Department of Education; and providing an effective date.

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 17-116.10, as last amended by Section 2, Chapter 270, O.S.L. 2017 (70 O.S. Supp. 2018, Section 17-116.10), is amended to read as follows:

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

1. A retired member is not eligible to be employed by the public schools of Oklahoma, in any capacity, for sixty (60) calendar

1 days between the retiree's last day of preretirement public
2 education employment and any postretirement public education
3 employment. For purposes of this section, the term "last day of
4 preretirement employment" shall mean the last day the employee is
5 required to be physically present on the job to complete the terms
6 of the employment contract or agreement. An employee on paid leave
7 is still considered to be employed for purposes of this section.
8 Employment under any conditions during this time, volunteer services
9 for the purpose of obtaining a paid position at a later date, or
10 payment at a later time for services performed during this time
11 period shall cause the forfeiture of all retirement benefits
12 received during the period;

13 2. Unless otherwise provided in ~~paragraph~~ paragraphs 3 and 4 of
14 this subsection, earnings from the public schools may not exceed
15 one-half (1/2) of the member's final average salary used in
16 computing retirement benefits, or the Earnings Limitation for
17 employees allowed by the Social Security Administration, whichever
18 is less. For retired members under the age of sixty-two (62) years,
19 the limit on allowed earnings from the public schools of Oklahoma
20 for employment for the performance of duties ordinarily performed by
21 classified or nonclassified personnel shall be the lesser of Fifteen
22 Thousand Dollars (\$15,000.00) or one-half (1/2) of the member's
23 final average salary used in computing retirement benefits unless
24 the earnings limitation allowed by the Social Security

1 Administration would be greater than Fifteen Thousand Dollars
2 (\$15,000.00). For retired members sixty-two (62) years of age or
3 older the limit on allowed earnings from the public schools of
4 Oklahoma for the performance of duties ordinarily performed by
5 classified or nonclassified personnel shall be the lesser of Thirty
6 Thousand Dollars (\$30,000.00) or one-half (1/2) of the member's
7 final average salary used in computing retirement benefits. For
8 purposes of this paragraph, the following shall apply:

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

- 1 day of January of each year to reflect the current
2 Earnings Limitation for employees as determined from
3 time to time by the Social Security Administration,
4 d. the earnings limit for the calendar year in which a
5 member retires shall be one-twelfth (1/12) of the
6 annual limit multiplied by the number of months the
7 member is eligible to work and receive payments from
8 the public schools of Oklahoma,
9 e. earnings in excess of the maximum limit on allowed
10 earnings from public schools of Oklahoma shall result
11 in a loss of future retirement benefits for the year
12 the postretirement employment was performed of One
13 Dollar (\$1.00) for each One Dollar (\$1.00) earned over
14 the maximum allowed earnings amount,
15 f. for those members age seventy (70) years and over, the
16 earnings in excess of the maximum limit allowed
17 earnings from public schools of Oklahoma shall be one-
18 half (1/2) the member's final average salary used in
19 computing retirement benefits. However, any retired
20 member receiving benefits from the Retirement System
21 who reached age seventy (70) years prior to July 1,
22 1991, shall not be restricted by the earnings limits
23 pursuant to this subparagraph until January 1, 1994.
24 To qualify for the provisions of this subparagraph,

1 the member must be employed less than one-half (1/2)
2 time compared to other full-time employees in similar
3 positions;

4 3. Notwithstanding paragraph 2 of this subsection, a retired
5 classified or nonclassified member who has been retired for thirty-
6 six (36) or more months and who is employed by a public school to
7 perform duties ordinarily performed by classified or nonclassified
8 personnel shall be able to receive annualized earnings from the
9 public school with no reduction in retirement benefits regardless of
10 the amount of annualized earnings. For a period of three (3) years
11 beginning July 1, 2017, members who have retired as of July 1, 2017,
12 as active classroom teachers, who have been retired and receiving a
13 benefit for at least one (1) year, and who have not been employed by
14 any public school during that one-year period, shall be eligible to
15 be reemployed as an active classroom teacher in common or career
16 tech school districts, with no limitations on earnings. The one-
17 year period starts with the retiree's last day of preretirement
18 public education employment. Members returning under this section
19 shall not be subject to any earning limitations following the end of
20 the three-year period described in this paragraph. Members
21 returning under this section shall only be employed pursuant to a
22 temporary contract; ~~and~~

23 4. Notwithstanding paragraph 2 of this subsection, a retired
24 classified or nonclassified member who is employed by the State

Department of Education to perform duties ordinarily performed by
classified or nonclassified personnel shall be able to receive
annualized earnings from the State Department of Education with no
reduction in retirement benefits regardless of the amount of
annualized earnings; and

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

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

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

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

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

9 SECTION 2. This act shall become effective November 1, 2019.
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January 10, 2019

Representative Mark McBride
Room 433B

Representative Toni Hasenbeck
Room 256

Re: RBH No. 5611

RBH No. 5611 allows a retired member of OTRS who employed by the Department of Education to continue to receive retirements without the earnings limitations.

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RBH No. 5611 is non fiscal bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act because there is no increase in benefits.

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