

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3330

By: Perryman

AS INTRODUCED

An Act relating to public retirement systems; 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 11 O.S. 2011, Section 50-115, as amended by Section 6, Chapter 20, O.S.L. 2018 (11 O.S. Supp. 2019, Section 50-115), which relates to the Oklahoma Police Pension and Retirement System; modifying provisions related to disability benefit determinations; specifying percentage of disability with respect to certain injury resulting from violent act; defining term; 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. "Amendment" means any amendment, including a substitute bill, made to a retirement bill by any committee of the House or

1 Senate, any conference committee of the House or Senate or by the
2 House or Senate;

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

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

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

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

18 a. which does not affect the cost or funding factors of a
19 retirement system, or

20 b. which affects such factors only in a manner which does
21 not:

22 (1) grant a benefit increase under the retirement
23 system affected by the bill,
24

- 1 (2) create an actuarial accrued liability for or
2 increase the actuarial accrued liability of the
3 retirement system affected by the bill, or
4 (3) increase the normal cost of the retirement system
5 affected by the bill,

- 6 c. which authorizes the purchase by an active member of
7 the retirement system, at the actuarial cost for the
8 purchase as computed pursuant to the statute in effect
9 on the effective date of the measure allowing such
10 purchase, of years of service for purposes of reaching
11 a normal retirement date in the applicable retirement
12 system, but which cannot be used in order to compute
13 the number of years of service for purposes of
14 computing the retirement benefit for the member,
15 d. which provides for the computation of a service-
16 connected disability retirement benefit for members of
17 the Oklahoma Law Enforcement Retirement System
18 pursuant to Section 2-305 of Title 47 of the Oklahoma
19 Statutes if the members were unable to complete twenty
20 (20) years of service as a result of the disability,
21 e. which requires membership in the defined benefit plan
22 authorized by Section 901 et seq. of Title 74 of the
23 Oklahoma Statutes for persons whose first elected or
24 appointed service occurs on or after November 1, 2018,

1 if such persons had any prior service in the Oklahoma
2 Public Employees Retirement System prior to November
3 1, 2015, or

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

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

18 (2) the lesser of two percent (2%) of the gross
19 annual retirement benefit of the member or One
20 Thousand Two Hundred Dollars (\$1,200.00) and
21 requires that the benefit may only be provided if
22 the funded ratio of the affected retirement
23 system would be greater than eighty percent (80%)
24

1 but not greater than one hundred percent (100%)
2 after the benefit increase is paid,

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

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

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

23 g. which modifies the disability pension standard for
24 police officers who are members of the Oklahoma Police

Pension and Retirement System as provided by Section 2
of this act.

A nonfiscal retirement bill shall include any retirement bill that has as its sole purpose the appropriation or distribution or redistribution of monies in some manner to a retirement system for purposes of reducing the unfunded liability of such system or the earmarking of a portion of the revenue from a tax to a retirement system or increasing the percentage of the revenue earmarked from a tax to a retirement system;

6. "Reduction-in-cost amendment" means an amendment to a retirement bill having a fiscal impact which reduces the cost of the bill as such cost is determined by the actuarial investigation for the bill prepared pursuant to Section 3109 of this title;

7. "Retirement bill" means any bill or joint resolution introduced or any bill or joint resolution amended by a member of the Oklahoma Legislature which creates or amends any law directly affecting a retirement system. A retirement bill shall not mean a bill or resolution that impacts the revenue of any state tax in which a portion of the revenue generated from such tax is earmarked for the benefit of a retirement system;

8. "Retirement bill having a fiscal impact" means any retirement bill creating or establishing a retirement system and any 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 11 O.S. 2011, Section 50-115, as
9 amended by Section 6, Chapter 20, O.S.L. 2018 (11 O.S. Supp. 2019,
10 Section 50-115), is amended to read as follows:

11 Section 50-115. A. The State Board is authorized to pay a
12 disability benefit to a member of the System or a pension to the
13 beneficiaries of such member eligible as hereinafter provided, not
14 exceeding the accrued retirement benefit of the member, except as
15 otherwise provided in this article. Such disability benefit shall
16 be payable immediately upon determination of eligibility. Any
17 preexisting condition identified at the time of any initial or
18 subsequent membership shall be used to offset the percentage of
19 impairment to the whole person in determining any disability
20 benefit. Once the initial disability benefit has been awarded by
21 the Board on the basis of the percentage of impairment to the whole
22 person, the member shall have no further recourse to increase the
23 awarded percentage of impairment.

1 B. In order for any member to be eligible for any disability
2 benefit, or the member's beneficiaries to be eligible for a pension,
3 the member must have complied with any agreement as to contributions
4 by the member and other members to any funds of the System where
5 said agreement has been made as provided by this article; and the
6 State Board must find:

7 1. That the member incurred a permanent total disability or a
8 permanent partial disability or died while in, and in consequence
9 of, the performance of duty as an officer; or

10 2. That such member has served ten (10) years and incurred a
11 permanent total disability or a permanent partial disability or has
12 died from any cause.

13 C. In the event of the death of any member who has been awarded
14 a disability benefit or is eligible therefor as provided in this
15 article, the member's beneficiary shall be paid the benefit.

16 D. 1. As of the date of determination by the State Board that
17 a member is physically or mentally disabled and that the disability
18 is permanent and partial or permanent and total as was incurred
19 while in, and in consequence of, the performance or duty as an
20 officer, the member shall be awarded a disability benefit on the
21 basis of the percentage of impairment to the whole person, as
22 defined by the most current standards of the impairment as outlined
23 in the "American Medical Association's Guides to the Evaluation of
24 Permanent Impairment," as provided in the following table or as

prescribed by paragraph 2 of this subsection with respect to
injuries sustained as a result of a violent act:

1% to 49% impairment to whole person = 50% of the normal
 disability benefit

50% to 74% impairment to whole person = 75% of the normal
 disability benefit

75% to 100% impairment to whole person = 100% of the normal
 disability benefit.

2. If an injury to a member results from a violent act as
defined by this paragraph while in the performance of their duties
as a police officer, the State Board shall make a determination that
the member has sustained a one-hundred-percent disability and shall
make the benefit award in accordance with that standard. As used in
this paragraph, "violent act" means a violent attack upon the member
by means of a dangerous weapon, including, but not limited to, a
firearm, knife, automobile, explosive device or other dangerous
weapon.

E. If the participating municipality denies a disabled member
 the option of continuing employment instead of retiring on a
 disability pension, then the burden of proof rests with the
 participating municipality to show cause to the State Board that
 there is no position as a sworn officer within the police department
 of that municipality which the member can fill.

1 F. Upon determination by the State Board that a member is
2 physically or mentally disabled and that the disability is permanent
3 and total and that the member has completed ten (10) years of
4 credited service and is disabled by any cause, the member shall
5 receive a disability benefit on the basis of the member's accrued
6 retirement benefit. A permanent and total impairment equates to one
7 hundred percent (100%) of accrued retirement benefit.

8 G. Upon determination by the State Board that a member is
9 physically or mentally disabled and that the disability is permanent
10 and partial and that the member has completed ten (10) years of
11 credited service as a member and is disabled from any cause, the
12 member shall be awarded a disability benefit on the basis of the
13 member's years of credited service as a member and the percentage of
14 impairment to the whole person, as defined by the most current
15 standards of the impairment as outlined in the "American Medical
16 Association's Guides to the Evaluation of Permanent Impairment", on
17 the basis of the following table:

18 1% to 24% impaired = 25% of accrued retirement benefit
19 25% to 49% impaired = 50% of accrued retirement benefit
20 50% to 74% impaired = 75% of accrued retirement benefit
21 75% to 99% impaired = 90% of accrued retirement benefit.

22 H. Before making a finding as to the disability of a member,
23 the State Board shall require that, if the member is able, the
24 member shall make a certificate as to the disability which shall be

1 subscribed and sworn to by the member. It shall also require a
2 certificate as to such disability to be made by some physician
3 licensed to practice in this state as selected by the State Board.
4 The State Board may require other evidence of disability before
5 making the disability benefit. The salary of any such member shall
6 continue while the member is so necessarily confined to such
7 hospital bed or home and necessarily requires medical care or
8 professional nursing on account of such sickness or disability for a
9 period of not more than six (6) months, after which said period the
10 other provisions of this article may apply. The State Board, in
11 making disability benefits, shall act upon the written request of
12 the member or without such request, if it deem it for the good of
13 the police department. Any disability benefits shall cease when the
14 member receiving same shall be restored to active service at a
15 salary not less than three-fourths ($3/4$) of the member's average
16 monthly salary.

17 I. Any member of a police department of any municipality who,
18 in the line of duty, has been exposed to hazardous substances,
19 including but not limited to chemicals used in the manufacture of a
20 controlled dangerous substance or chemicals resulting from the
21 manufacture of a controlled dangerous substance, or to blood-borne
22 pathogens and who is later disabled from a condition that was the
23 result of such exposure and that was not revealed by the physical
24 examination passed by the member upon entry into the System shall be

1 presumed to have incurred such disability while performing the
2 officer's duties unless the contrary is shown by competent evidence.
3 The presumption created by this subsection shall have no application
4 whatever to any workers' compensation claim or claims, and it shall
5 not be applied or be relied upon in any way in workers' compensation
6 proceedings. All compensation or benefits due to any member
7 pursuant to the presumption created by this subsection shall be paid
8 solely by the system.

9 J. If the requirements of Section 50-114.4 of this title are
10 satisfied, a member who, by reason of disability, is separated from
11 service as a public safety officer with the member's participating
12 municipality, may elect to have payment made directly to the
13 provider for qualified health insurance premiums by deduction from
14 his or her monthly disability benefit, after December 31, 2006, in
15 accordance with Section 402(1) of the Internal Revenue Code of 1986,
16 as amended.

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

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

57-2-10747 MAH 01/15/20

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January 15, 2020

Representative Perryman

Re: RBH No. 10747

This bill would provide that if a participant in the Police Pension and Retirement System is injured by a violent act the participant would be 100% disabled.

This bill changes the OPLAA definition of a fiscal retirement bill to allow the change in disability definition in the Police Pension and Retirement System

RBH No. 10747 is a non fiscal bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act.

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