

## STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3994

By: Wright

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

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

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

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

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

16           a. which does not affect the cost or funding factors of a  
17 retirement system, or

18           b. which affects such factors only in a manner which does  
19 not:

20               (1) grant a benefit increase under the retirement  
21 system affected by the bill,

22               (2) create an actuarial accrued liability for or  
23 increase the actuarial accrued liability of the  
24 retirement system affected by the bill, or

- 1           (3) increase the normal cost of the retirement system  
2           affected by the bill,
- 3       c. which authorizes the purchase by an active member of  
4       the retirement system, at the actuarial cost for the  
5       purchase as computed pursuant to the statute in effect  
6       on the effective date of the measure allowing such  
7       purchase, of years of service for purposes of reaching  
8       a normal retirement date in the applicable retirement  
9       system, but which cannot be used in order to compute  
10       the number of years of service for purposes of  
11       computing the retirement benefit for the member,
- 12       d. which provides for the computation of a service-  
13       connected disability retirement benefit for members of  
14       the Oklahoma Law Enforcement Retirement System  
15       pursuant to Section 2-305 of Title 47 of the Oklahoma  
16       Statutes if the members were unable to complete twenty  
17       (20) years of service as a result of the disability,
- 18       e. which requires membership in the defined benefit plan  
19       authorized by Section 901 et seq. of Title 74 of the  
20       Oklahoma Statutes for persons whose first elected or  
21       appointed service occurs on or after November 1, 2018,  
22       if such persons had any prior service in the Oklahoma  
23       Public Employees Retirement System prior to November  
24       1, 2015, ~~or~~

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

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

15           (2)   the lesser of two percent (2%) of the gross  
16                   annual retirement benefit of the member or One  
17                   Thousand Two Hundred Dollars (\$1,200.00) and  
18                   requires that the benefit may only be provided if  
19                   the funded ratio of the affected retirement  
20                   system would be greater than eighty percent (80%)  
21                   but not greater than one hundred percent (100%)  
22                   after the benefit increase is paid,

23           (3)   the lesser of two percent (2%) of the gross  
24                   annual retirement benefit of the member or One

1           Thousand Four Hundred Dollars (\$1,400.00) and  
2           requires that the benefit may only be provided if  
3           the funded ratio of the affected retirement  
4           system would be greater than one hundred percent  
5           (100%) after the benefit increase is paid, or  
6           (4) the greater of two percent (2%) of the gross  
7           annual retirement benefit of the volunteer  
8           firefighter or One Hundred Dollars (\$100.00) for  
9           persons who retired from the Oklahoma  
10          Firefighters Pension and Retirement System as  
11          volunteer firefighters and who did not retire  
12          from the Oklahoma Firefighters Pension and  
13          Retirement System as a paid firefighter.

14          As used in this subparagraph, "funded ratio" means the  
15          figure derived by dividing the actuarial value of  
16          assets of the applicable retirement system by the  
17          actuarial accrued liability of the applicable  
18          retirement system, or

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

22          A nonfiscal retirement bill shall include any retirement bill that  
23          has as its sole purpose the appropriation or distribution or  
24          redistribution of monies in some manner to a retirement system for

1 purposes of reducing the unfunded liability of such system or the  
2 earmarking of a portion of the revenue from a tax to a retirement  
3 system or increasing the percentage of the revenue earmarked from a  
4 tax to a retirement system;

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

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

16 8. "Retirement bill having a fiscal impact" means any  
17 retirement bill creating or establishing a retirement system and any  
18 other retirement bill other than a nonfiscal retirement bill; and

19 9. "Retirement system" means the Teachers' Retirement System of  
20 Oklahoma, the Oklahoma Public Employees Retirement System, the  
21 Uniform Retirement System for Justices and Judges, the Oklahoma  
22 Firefighters Pension and Retirement System, the Oklahoma Police  
23 Pension and Retirement System, the Oklahoma Law Enforcement  
24

1 Retirement System, or a retirement system established after January  
2 1, 2006.

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

6 Section 17-116.10 A. Subject to the requirements of Section 6-  
7 101.2 of this title and any other applicable requirements of law, a  
8 member may enter into postretirement employment with a public school  
9 of Oklahoma and still receive monthly retirement benefits subject to  
10 the following limitations:

11 1. A retired member is not eligible to be employed by the  
12 public schools of Oklahoma, in any capacity, for sixty (60) calendar  
13 days between the retiree's last day of preretirement public  
14 education employment and any postretirement public education  
15 employment. For purposes of this section, the term "last day of  
16 preretirement employment" shall mean the last day the employee is  
17 required to be physically present on the job to complete the terms  
18 of the employment contract or agreement. An employee on paid leave  
19 is still considered to be employed for purposes of this section.  
20 Employment under any conditions during this time, volunteer services  
21 for the purpose of obtaining a paid position at a later date, or  
22 payment at a later time for services performed during this time  
23 period shall cause the forfeiture of all retirement benefits  
24 received during the period;

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

- a. earnings shall mean "regular annual compensation" as defined in paragraph (25) of Section 17-101 of this title, and shall include any payment by a public



1 school for services rendered by a retired member who  
2 is employed for any purpose whatsoever. Supplemental  
3 retirement payments paid by a former public school  
4 employer pursuant to subsection 9 of Section 17-105 of  
5 this title or other state law shall not be considered  
6 as earnings,

7 b. the Earnings Limitation for employees allowed by the  
8 Social Security Administration to workers between the  
9 age of sixty-two (62) years and sixty-five (65) years  
10 shall apply to retired members below the age of sixty-  
11 two (62) years,

12 c. the limit on allowed earnings from the public schools  
13 shall be automatically adjusted effective the first  
14 day of January of each year to reflect the current  
15 Earnings Limitation for employees as determined from  
16 time to time by the Social Security Administration,

17 d. the earnings limit for the calendar year in which a  
18 member retires shall be one-twelfth (1/12) of the  
19 annual limit multiplied by the number of months the  
20 member is eligible to work and receive payments from  
21 the public schools of Oklahoma,

22 e. earnings in excess of the maximum limit on allowed  
23 earnings from public schools of Oklahoma shall result  
24 in a loss of future retirement benefits for the year

1 the postretirement employment was performed of One  
2 Dollar (\$1.00) for each One Dollar (\$1.00) earned over  
3 the maximum allowed earnings amount,

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

17 3. Notwithstanding paragraph 2 of this subsection, a retired  
18 classified or nonclassified member who has been retired for thirty-  
19 six (36) or more months and who is employed by a public school to  
20 perform duties ordinarily performed by classified or nonclassified  
21 personnel shall be able to receive annualized earnings from the  
22 public school with no reduction in retirement benefits regardless of  
23 the amount of annualized earnings. For a period of three (3) years  
24 beginning July 1, 2017, members who have retired as of July 1, 2017,

1 as active classroom teachers, who have been retired and receiving a  
2 benefit for at least one (1) year, and who have not been employed by  
3 any public school during that one-year period, shall be eligible to  
4 be reemployed as an active classroom teacher in common or career  
5 tech school districts, with no limitations on earnings. The one-  
6 year period starts with the retiree's last day of preretirement  
7 public education employment. Members returning under this section  
8 shall not be subject to any earning limitations following the end of  
9 the three-year period described in this paragraph. Members  
10 returning under this section shall only be employed pursuant to a  
11 temporary contract; and

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

20 B. A public school district that employs a retired member shall  
21 be required to make contributions to the System for the retired  
22 member in an amount as required in Section 17-108.1 and in paragraph  
23 3 of subsection B of Section 17-116.2 of this title.

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

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

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

14 SECTION 3. Section 1 of this act shall become effective October  
15 1, 2020.

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

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19 57-2-10734 MAH 01/15/20  
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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