

## STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 4272

By: Sneed

AS INTRODUCED

An Act relating to the Oklahoma Law Enforcement Retirement System; amending 62 O.S. 2021, Section 3103, which relates to the Oklahoma Pension Legislation Actuarial Analysis Act; modifying definitions; amending 47 O.S. 2021, Section 2-305, which relates to retirement benefits and reemployment; modifying restriction on reemployment; and providing effective dates.

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

SECTION 1. AMENDATORY 62 O.S. 2021, 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;

2. "RB number" means that number preceded by the letters "RB" assigned to a retirement bill by the respective staffs of the

Oklahoma State Senate and the Oklahoma House of Representatives when the respective staff office prepares a retirement bill for a member of the Legislature;

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

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

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

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

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

1 a permanent increase in the gross annual retirement  
2 benefit payable to a member or beneficiary, occurs  
3 only once pursuant to a single statutory authorization  
4 and does not exceed:

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

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

21 (3) the lesser of two percent (2%) of the gross  
22 annual retirement benefit of the member or One  
23 Thousand Four Hundred Dollars (\$1,400.00) and  
24 requires that the benefit may only be provided if

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

12 g. which allows a retired member of the Oklahoma Law  
13 Enforcement Retirement System to perform services  
14 pursuant to a contract as described by paragraph 2 of  
15 subsection A of Section 2-305 of Title 47 of the  
16 Oklahoma Statutes.

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

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

1 Pension and Retirement System as provided by Section 3  
2 of this act, or

3 ~~h.~~ i. which provides a cost-of-living benefit increase  
4 pursuant to the provisions of Sections 2 through 7 of  
5 this act.

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

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

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

1        8. "Retirement bill having a fiscal impact" means any  
2 retirement bill creating or establishing a retirement system and any  
3 other retirement bill other than a nonfiscal retirement bill; and

4        9. "Retirement system" means the Teachers' Retirement System of  
5 Oklahoma, the Oklahoma Public Employees Retirement System, the  
6 Uniform Retirement System for Justices and Judges, the Oklahoma  
7 Firefighters Pension and Retirement System, the Oklahoma Police  
8 Pension and Retirement System, the Oklahoma Law Enforcement  
9 Retirement System, or a retirement system established after January  
10 1, 2006.

11        SECTION 2.        AMENDATORY        47 O.S. 2021, Section 2-305, is  
12 amended to read as follows:

13        Section 2-305. A. Except as otherwise provided in this title,  
14 at any time after attaining normal retirement date, any member of  
15 the Oklahoma Law Enforcement Retirement System upon application for  
16 unreduced retirement benefits made and approved, may retire, and,  
17 during the remainder of the member's lifetime, receive annual  
18 retirement pay, payable in equal monthly payments, equal to two and  
19 one-half percent (2 1/2%) of the final average salary times years of  
20 credited service.

21        1. If such retired member is reemployed by a state agency in a  
22 position which is not covered by the System, such retired member  
23 shall continue to receive in-service distributions from the System.  
24 Prior to September 19, 2002, if such retired member was reemployed

1 by a state agency in a position which is covered by the System, such  
2 member shall continue to receive in-service distributions from the  
3 System and shall not accrue any further credited service. ~~If such a~~  
4 ~~member is reemployed by a state agency in a position which is~~  
5 ~~covered by the System on or after September 19, 2002, such member's~~  
6 ~~monthly retirement payments shall be suspended until such member~~  
7 ~~retires and is not reemployed by a state agency in a position which~~  
8 ~~is covered by the System.~~

9 2. A retired member of the System may enter into a contract for  
10 the performance of services for an employer if the retired member is  
11 compensated as an independent contractor and is not paid a salary,  
12 the compensation paid to the retired member is not subject to  
13 federal or state withholding taxes and no employer or employee  
14 contributions are deducted from the compensation paid to the retired  
15 member. No retired member who returns to work pursuant to the  
16 provisions of this paragraph shall accrue any additional service  
17 credit in the Oklahoma Law Enforcement Retirement System as a result  
18 of such post-retirement performance of services.

19 B. Beginning July 1, 1994, members who retired or were eligible  
20 to retire prior to July 1, 1980, or their surviving spouses shall  
21 receive annual retirement pay, payable in equal monthly payments,  
22 equal to the greater of their current retirement pay, or two and  
23 one-half percent (2 1/2%) of the actual paid gross salary being  
24 currently paid to a highway patrol officer, at the time each such



1 monthly retirement payment is made, multiplied by the retired  
2 member's years of credited service.

3 C. Except as otherwise provided by this subsection, members of  
4 the System whose salary is set by statute who have retired after  
5 completion of the mandatory twenty (20) years of service, and those  
6 members with statutory salaries who retire after reaching the  
7 mandatory twenty-year retirement shall receive an annual retirement  
8 pay, payable in equal monthly installments, based upon the greater  
9 of either:

10 1. The top base salary currently paid to the highest  
11 nonsupervisory position in the participating agency at the time each  
12 such monthly retirement payment is made, limited to the annual  
13 salary limit of the Economic Growth and Tax Relief Reconciliation  
14 Act of 2001, as described in paragraph 9 of Section 2-300 of this  
15 title, multiplied by two and one-half percent (2 1/2%) multiplied by  
16 the number of years of credited service and fraction thereof for the  
17 following positions:

- 18 a. Oklahoma Highway Patrolman,
- 19 b. Communications Dispatcher,
- 20 c. Capitol Patrolman,
- 21 d. Lake Patrolman, and
- 22 e. Oklahoma State Bureau of Investigation - Special Agent  
23 or Criminalist; or  
24

1        2. The member's final average salary as set forth in paragraph  
2 9 of Section 2-300 of this title, multiplied by two and one-half  
3 percent (2 1/2%), and multiplied by the number of years of credited  
4 service and fraction thereof.

5        No member of the System retired prior to July 1, 2002, shall  
6 receive a benefit less than the amount the member is receiving as of  
7 June 30, 2002.

8        The provisions of paragraph 1 of this subsection shall not be  
9 applicable to any member whose first participating service with the  
10 System occurs on or after November 1, 2012.

11        D. Other members of the System whose retirement benefit is not  
12 otherwise prescribed by this section who have retired after  
13 completion of the mandatory twenty (20) years of service, and those  
14 members who retire after reaching the mandatory twenty-year  
15 retirement shall receive an annual retirement pay, payable in equal  
16 monthly payments, based upon the greater of either:

17        1. The actual average salary currently paid to the highest  
18 nonsupervisory position in the participating agency at the time each  
19 such monthly payment is made, limited to the annual salary limit of  
20 the Economic Growth and Tax Relief Reconciliation Act of 2001, as  
21 described in paragraph 9 of Section 2-300 of this title, multiplied  
22 by two and one-half percent (2 1/2%), multiplied by the number of  
23 years of credited service and fraction thereof for the following  
24 positions:

- a. Alcoholic Beverage Laws Enforcement Commission - ABLE Commission Agent III,
- b. Oklahoma State Bureau of Narcotics and Dangerous Drugs Control - Narcotics Agent III,
- c. Oklahoma Tourism and Recreation Department - Park Ranger II,
- d. State Board of Pharmacy - Pharmacy Inspector,
- e. University of Oklahoma - Police Officer, and
- f. Oklahoma State University - Police Officer; or

2. The other member's final average salary as set forth in paragraph 9 of Section 2-300 of this title, multiplied by two and one-half percent (2 1/2%), multiplied by the number of years of credited service and fraction thereof.

No member of the System retired prior to July 1, 2002, shall receive a benefit less than the amount the member is receiving as of June 30, 2002. The participating employer must certify to the System in writing the actual average gross salary currently paid to the highest nonsupervisory position. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this section.

The provisions of paragraph 1 of this subsection shall not be applicable to any member whose first participating service with the System occurs on or after May 24, 2013.

1 E. A member who meets the definition of disability as defined  
2 in paragraph 11 of Section 2-300 of this title by direct reason of  
3 the performance of the member's duties as an officer shall receive a  
4 monthly benefit equal to:

5 1. Two and one-half percent (2 1/2%);

6 2. Multiplied by:

7 a. twenty (20) years of credited service, if the member  
8 had performed less than twenty (20) years of credited  
9 service, notwithstanding the actual number of years of  
10 credited service performed by the member prior to the  
11 date of disability, or

12 b. the actual number of years of credited service and  
13 fraction thereof performed by the member prior to the  
14 date of disability, if the member had performed twenty  
15 (20) or more years of credited service;

16 3. Multiplied by the greater of subparagraph a of this  
17 paragraph and division 1 of subparagraph b of this paragraph or  
18 division 2 of subparagraph b of this paragraph, as applicable:

19 a. the final average salary of the member, as set forth  
20 in paragraph 9 of Section 2-300 of this title, and

21 b. (1) the top base salary currently paid to the highest  
22 nonsupervisory position in the participating  
23 agency of the member whose first participating  
24 service with the System occurred before November

1, 2012, at the time each monthly payment is made, limited to the annual salary limit of the Economic Growth and Tax Relief Reconciliation Act of 2001 described in paragraph 9 of Section 2-300 of this title, for the following positions:

- (a) Oklahoma Highway Patrolman,
- (b) Communications Dispatcher,
- (c) Capitol Patrolman,
- (d) Lake Patrolman, and
- (e) Oklahoma State Bureau of Investigation -  
Special Agent or Criminalist,

Provided, the participating employer must certify to the System in writing the top base salary currently paid to the highest nonsupervisory position for division 1 of subparagraph b of this paragraph, or

- (2) the actual average salary currently paid to the highest nonsupervisory position in the participating agency of the member whose first participating service with the System occurred before May 24, 2013, at the time each monthly payment is made, limited to the annual salary limit of the Economic Growth and Tax Relief Reconciliation Act of 2001, described in

1 paragraph 9 of Section 2-300 of this title, for  
2 the following positions:

3 (a) Alcoholic Beverage Laws Enforcement (ABLE)

4 Commission - ABLE Commission Agent III,

5 (b) Oklahoma State Bureau of Narcotics and

6 Dangerous Drugs Control - Narcotics Agent

7 III,

8 (c) Oklahoma Tourism and Recreation Department -

9 Park Ranger II,

10 (d) State Board of Pharmacy - Pharmacy

11 Inspector,

12 (e) University of Oklahoma - Police Officer, and

13 (f) Oklahoma State University - Police Officer,

14 Provided, the participating employer must certify to the System  
15 in writing the actual average gross salary currently paid to the  
16 highest nonsupervisory position for division 2 of subparagraph b of  
17 this paragraph;

18 4. No member of the System receiving benefits prescribed by  
19 this subsection who retired prior to July 1, 2002, shall receive a  
20 benefit of less than the amount the member was receiving as of June  
21 30, 2002;

22 5. The Board of Trustees shall promulgate rules as necessary to  
23 implement the provisions of this subsection; and  
24

1        6. If such member participates in the Oklahoma Law Enforcement  
2 Deferred Option Plan pursuant to Section 2-305.2 of this title, then  
3 such member's disability pension provided pursuant to this  
4 subsection shall be reduced to account for such member's  
5 participation in the Oklahoma Law Enforcement Deferred Option Plan.

6        F. A member who meets the definition of disability as defined  
7 in paragraph 11 of Section 2-300 of this title and whose disability  
8 is by means of personal and traumatic injury of a catastrophic  
9 nature and in the line of duty, shall receive a monthly benefit  
10 equal to:

11        1. Two and one-half percent (2 1/2%);

12        2. Multiplied by:

13            a. twenty (20) years of service, regardless of the actual  
14                number of years of credited service performed by the  
15                member prior to the date of disability, if the member  
16                had performed less than twenty (20) years of service,  
17                or

18            b. the actual number of years of service performed by the  
19                member if the member had performed twenty (20) or more  
20                years of service;

21        3. Multiplied by a final average salary equal to:

22            a. the salary which the member would have received  
23                pursuant to statutory salary schedules in effect upon  
24                the date of the disability for twenty (20) years of

1 service prior to disability. The final average salary  
2 for a member who performed less than twenty (20) years  
3 of service prior to disability shall be computed  
4 assuming that the member was paid the highest salary  
5 allowable pursuant to the law in effect at the time of  
6 the member's disability based upon twenty (20) years  
7 of service and with an assumption that the member was  
8 eligible for any and all increases in pay based upon  
9 rank during the entire period. If the salary of a  
10 member is not prescribed by a specific salary schedule  
11 upon the date of the member's disability, the final  
12 average salary for the member shall be computed by the  
13 member's actual final average salary or the highest  
14 median salary amount for a member whose salary was  
15 prescribed by a specific salary schedule upon the date  
16 of the member's disability, whichever final average  
17 salary amount would be greater, or

- 18 b. the actual final average salary of the member if the  
19 member had performed twenty (20) or more years of  
20 service prior to disability.

21 If such member participates in the Oklahoma Law Enforcement  
22 Deferred Option Plan pursuant to Section 2-305.2 of this title, such  
23 member's disability pension provided pursuant to this subsection  
24 shall be adjusted as provided in Section 2-305.2 of this title to



1 account for such member's participation in the Oklahoma Law  
2 Enforcement Deferred Option Plan.

3 G. A member who meets the definition of disability as defined  
4 in Section 2-300 of this title and whose disability occurred prior  
5 to the member's normal retirement date but after completing three  
6 (3) years of vesting service and not by reason of the performance of  
7 the member's duties or as a result of the member's willful  
8 negligence shall receive a monthly benefit equal to two and one-half  
9 percent (2 1/2%) of final average salary multiplied by the number of  
10 years of the member's credited service.

11 H. Payment of a disability pension shall commence as of the  
12 first day of the month coinciding or next following the date of  
13 retirement and shall continue as long as the member meets the  
14 definition of total and permanent disability provided in this  
15 section.

16 I. For the purpose of determining the member's disability under  
17 subsection E, F or G of this section, the member shall be required  
18 by the Board to be examined by a minimum of two recognized  
19 physicians selected by the Board to determine the extent of the  
20 member's injury or illness. The examining physicians shall furnish  
21 the Board a detailed written report of the injury or illness of the  
22 examined member establishing the extent of disability and the  
23 possibilities of the disabled member being returned to his or her  
24 regular duties or an alternate occupation or service covered by the

1 System after a normal recuperation period. The Board shall require  
2 all retired disabled members who have not attained their normal  
3 retirement date to submit to a physical examination once each year  
4 for a minimum of three (3) years following retirement. The Board  
5 shall select a minimum of two physicians to examine the retired  
6 members and pay for their services from the fund. Any retired  
7 disabled member found no longer disabled by the examining physicians  
8 to perform the occupation of the member or an alternate occupation  
9 or service covered by the System shall be required to return to duty  
10 and complete twenty (20) years of service as provided in subsection  
11 A of this section, or forfeit all his or her rights and claims under  
12 Section 2-300 et seq. of this title.

13 J. The disability benefit under this section shall be for the  
14 lifetime of the member unless such member is found no longer  
15 disabled pursuant to subsection I of this section. Such member  
16 shall not be entitled to the retirement benefit pursuant to  
17 subsection A of this section unless such member returns to active  
18 duty and is eligible for a retirement benefit as provided in  
19 subsection A of this section.

20 K. At the postoffer, preemployment physical examination  
21 required under paragraph 6 of Section 2-300 of this title, the  
22 physician selected by the Board shall determine the extent to which  
23 a new member is disabled. If a member is determined to be partially  
24 disabled, the physician shall assign a percentage of disability to

1 such partial disability. If such member then becomes entitled to a  
2 disability benefit under either subsection E or subsection G of this  
3 section, the benefit payable shall be reduced by the percentage  
4 which such member was determined to be disabled at the postoffer,  
5 preemployment physical unless the Board makes a determination that  
6 the initially determined percentage of disability at the  
7 preemployment physical examination is unrelated to the reason for  
8 the disability currently sought pursuant to subsection E or  
9 subsection G of this section. Upon employment, the member shall  
10 disclose to the Board any disability payments received from any  
11 source. The amount of disability to be paid to any member cannot  
12 exceed one hundred percent (100%) disability from all sources. The  
13 provisions of this subsection shall apply only to members whose  
14 effective date of membership is on or after July 1, 2000.

15 L. In addition to the pension provided for under subsection F  
16 of this section, if the member has one or more children under the  
17 age of eighteen (18) years or under the age of twenty-two (22) years  
18 if the child is enrolled full time in and is regularly attending a  
19 public or private school or any institution of higher education,  
20 Four Hundred Dollars (\$400.00) a month shall be paid from the Fund  
21 for the support of each surviving child to the member or person  
22 having the care and custody of such children until each child  
23 reaches the age of eighteen (18) years or reaches the age of twenty-  
24 two (22) years if the child is enrolled full time in and is

1 regularly attending a public or private school or any institution of  
2 higher education.

3 M. Notwithstanding any other provisions in Section 2-300  
4 through 2-315 of this title, in order to be eligible to receive  
5 disability benefits, a member who meets the definition of disability  
6 as defined in paragraph 11 of Section 2-300 of this title shall file  
7 the member's completed application for disability benefits with the  
8 System before such member's date of termination from service and  
9 provide such additional information that the System's rules require  
10 within six (6) months of the System's receipt of such application.  
11 If the member's completed application for disability benefits is not  
12 filed with the System before the member's date of termination from  
13 service or such additional information as is required under the  
14 System's rules is not provided within six (6) months of the System's  
15 receipt of such application, such member shall be eligible only for  
16 such other benefits as are available to members of the System and  
17 shall not be eligible to receive any disability benefits. For good  
18 cause shown, the Board of Trustees may waive the requirement that  
19 the disability application be filed before the member's date of  
20 termination from service. In no event shall a member be eligible to  
21 receive any disability benefit if the member's completed application  
22 is filed more than six (6) months after the member's date of  
23 termination from service.

1 N. If the requirements of Section 2-305.1C of this title are  
2 satisfied, a member who, by reason of disability or attainment of  
3 normal retirement date or age, is separated from service as a public  
4 safety officer with the member's participating employer may elect to  
5 have payment made directly to the provider for qualified health  
6 insurance premiums by deduction from his or her monthly disability  
7 benefit or monthly retirement payment, after December 31, 2006, in  
8 accordance with Section 402(1) of the Internal Revenue Code of 1986,  
9 as amended.

10 SECTION 3. Section 1 of this act shall become effective October  
11 1, 2022.

12 SECTION 4. Section 2 of this act shall become effective  
13 November 1, 2022.

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15 58-2-9739 MAH 01/20/22  
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**THOMAS E. CUMMINS CONSULTING ACTUARY, INC.**

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January 18, 2022

Representative Sneed  
Room 346.1

Re: RBH No. 9739

RBH No. 9739 would allow an OLEERS retired participant to return employment as a contract employee. As a contract employee the participant would not receive any additional service credit.

RBH No. 9739 amends the definition of a non fiscal bill in OPLAAA to include the above provision,

This bill is a non fiscal bill under OPLAAA as amended.

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