

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

HOUSE BILL 2379

By: Davis

AS INTRODUCED

An Act relating to public retirement systems; amending 62 O.S. 2011, Section 3103, as last amended by Section 1, Chapter 121, O.S.L. 2020 (62 O.S. Supp. 2020, Section 3103), which relates to the Oklahoma Pension Legislation Actuarial Analysis Act; modifying definition; 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. 2020, Section 17-116.10), which relates to the Teachers' Retirement System of Oklahoma; modifying provisions related to postretirement earnings limits; authorizing compensation for postretirement employment as substitute teacher; 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 1, Chapter 121, O.S.L. 2020 (62 O.S. Supp. 2020, 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,

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,

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~~

1 g. which provides a cost-of-living benefit increase
2 pursuant to the provisions of Sections 2 through 7 of
3 this act, or

4 h. which modifies the postretirement earnings limit
5 provisions of the Teachers' Retirement System of
6 Oklahoma as provided by Section 2 of this act.

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

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

18 7. "Retirement bill" means any bill or joint resolution
19 introduced or any bill or joint resolution amended by a member of
20 the Oklahoma Legislature which creates or amends any law directly
21 affecting a retirement system. A retirement bill shall not mean a
22 bill or resolution that impacts the revenue of any state tax in
23 which a portion of the revenue generated from such tax is earmarked
24 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 70 O.S. 2011, Section 17-116.10,
12 as last amended by Section 2, Chapter 270, O.S.L. 2017 (70 O.S.
13 Supp. 2020, Section 17-116.10), is amended to read as follows:

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

19 1. A retired member is not eligible to be employed by the
20 public schools of Oklahoma, in any capacity, for sixty (60) calendar
21 days between the retiree's last day of preretirement public
22 education employment and any postretirement public education
23 employment. For purposes of this section, the term "last day of
24 preretirement employment" shall mean the last day the employee is

1 required to be physically present on the job to complete the terms
2 of the employment contract or agreement. An employee on paid leave
3 is still considered to be employed for purposes of this section.
4 Employment under any conditions during this time, volunteer services
5 for the purpose of obtaining a paid position at a later date, or
6 payment at a later time for services performed during this time
7 period shall cause the forfeiture of all retirement benefits
8 received during the period;

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

1 shall be the lesser of Thirty Thousand Dollars (\$30,000.00) or one-
2 half (1/2) of the member's final average salary used in computing
3 retirement benefits. For purposes of this paragraph, the following
4 shall apply:

5 a. earnings shall mean "regular annual compensation" as
6 defined in paragraph (25) of Section 17-101 of this
7 title, and shall include any payment by a public
8 school for services rendered by a retired member who
9 is employed for any purpose whatsoever. Supplemental
10 retirement payments paid by a former public school
11 employer pursuant to subsection (9) of Section 17-105
12 of this title or other state law shall not be
13 considered as earnings,

14 b. the Earnings Limitation for employees allowed by the
15 Social Security Administration to workers between the
16 age of sixty-two (62) years and sixty-five (65) years
17 shall apply to retired members below the age of sixty-
18 two (62) years,

19 c. the limit on allowed earnings from the public schools
20 shall be automatically adjusted effective the first
21 day of January of each year to reflect the current
22 Earnings Limitation for employees as determined from
23 time to time by the Social Security Administration,
24

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

1 3. a. Notwithstanding paragraph 2 of this subsection, a
2 retired classified or nonclassified member who has
3 been retired for thirty-six (36) or more months and
4 who is employed by a public school to perform duties
5 ordinarily performed by classified or nonclassified
6 personnel shall be able to receive annualized earnings
7 from the public school with no reduction in retirement
8 benefits regardless of the amount of annualized
9 earnings.

10 b. For a period of three (3) years beginning July 1,
11 2017, members who have retired as of July 1, 2017, as
12 active classroom teachers, who have been retired and
13 receiving a benefit for at least one (1) year, and who
14 have not been employed by any public school during
15 that one-year period, shall be eligible to be
16 reemployed as an active classroom teacher in common or
17 career tech school districts, with no limitations on
18 earnings. The one-year period starts with the
19 retiree's last day of preretirement public education
20 employment. Members returning under this section
21 shall not be subject to any earning limitations
22 following the end of the three-year period described
23 in this paragraph. Members returning under this
24

1 section shall only be employed pursuant to a temporary
2 contract.

3 c. Notwithstanding any other provisions of this section
4 to the contrary, on and after the effective date of
5 this act, a retired member of the Teachers' Retirement
6 System of Oklahoma who performs substitute teaching
7 services for a common school district shall not be
8 subject to any earnings limitation otherwise imposed
9 pursuant to the provisions of this section; and

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

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

22 C. For purposes of this section, postretirement employment of
23 less than one thousand (1,000) hours per year with the Governor, the
24 State Senate, the House of Representatives or the Legislative

1 Service Bureau shall not be considered as postretirement employment
2 with a public school of Oklahoma.

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

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

11 SECTION 3. Section 1 of this act shall become effective October
12 1, 2021.

13 SECTION 4. Section 2 of this act shall become effective
14 November 1, 2021.

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16 58-1-6252 MAH 01/19/21

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THOMAS E. CUMMINS CONSULTING ACTUARY, INC.

2512 E. 71st Street , Suite D · Tulsa, Oklahoma 74136

(918) 492-9658 · (918) 492- 9659

January 19, 2021

Representative Dean Davis
Room 500.3

Re: RBH No. 6252

RBH No. 6252 would allow retired teachers to return as substitute teachers with no limit on earnings.

RBH No. 6252 amends OPLAAA definition of nonfiscal bill to include the above change.

RBH No. 6252 is a nonfiscal bill as defined by OPLAAA.

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