

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3807

By: Burns

AS INTRODUCED

An Act relating to retirement; authorizing certain persons to become members in the Oklahoma Law Enforcement Retirement System; directing the Oklahoma Law Enforcement Retirement System Board to make determination of eligibility; directing certain agencies to send notice; directing certain agencies and members to make contributions if certain conditions are met; providing conditions on which certain members shall be transferred to the System; amending 47 O.S. 2021, Section 2-300, as amended by Section 8, Chapter 151, O.S.L. 2023 (47 O.S. Supp. 2023, Section 2-300), which relates to definitions; modifying term; providing term; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-309.9 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Participating agencies may make an irrevocable written election to become participating employers in the Oklahoma Law Enforcement Retirement System for their Board-designated law

1 enforcement support staff who directly support CLEET certified law
2 enforcement officers and are employed by a participating employer as
3 determined by the Board. The Board shall determine the allowable
4 law enforcement support staff eligible for transfer and may cease
5 new membership if it is determined that the support staff is no
6 longer eligible. The participating agencies shall send written
7 notice of the election to the Oklahoma Law Enforcement Retirement
8 System.

9 B. Beginning the following month after the System receives the
10 written notice, the participating agencies and all active designated
11 law enforcement support staff who are hired on or after the date of
12 the election shall participate in and make contributions to the
13 System as other participating employers and members of the System.

14 C. Upon election by the Board, pursuant to subsection A of this
15 section, active designated law enforcement support staff employed
16 prior to the date of the election and who were participating in the
17 Oklahoma Public Employees Retirement System or Pathfinder, may,
18 within three (3) months of the date of the election, make an
19 irrevocable written election to participate in the Oklahoma Law
20 Enforcement Retirement System and file the written election with the
21 Oklahoma Public Employees Retirement System or Pathfinder and the
22 Oklahoma Law Enforcement Retirement System. Such designated law
23 enforcement support staff who make the election to transfer shall be
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1 transferred to the Oklahoma Law Enforcement Retirement System
2 subject to the following:

3 1. Upon the date of election of the law enforcement support
4 staff, the law enforcement support staff shall cease accruing
5 benefits in the Oklahoma Public Employees Retirement System or
6 Pathfinder and shall commence accruing benefits in the Oklahoma Law
7 Enforcement Retirement System;

8 2. Prior to the beginning of the month following receipt of the
9 designated law enforcement support staff's election by Oklahoma
10 Public Employees Retirement System, the Oklahoma Public Employees
11 Retirement System or Pathfinder shall transfer to the Oklahoma Law
12 Enforcement Retirement System all employee contributions and
13 employer contributions plus accrued interest. The Oklahoma Public
14 Employees Retirement System or Pathfinder shall also send to the
15 Oklahoma Law Enforcement Retirement System the retirement records of
16 the transferring law enforcement support staff;

17 3. To receive service credit accrued by such law enforcement
18 support staff prior to the election, or prior to the date as of
19 which the person making the election ceases to be a member of the
20 Oklahoma Public Employees Retirement System or Pathfinder, whichever
21 date occurs last, the member shall pay the difference between the
22 amount transferred by the Oklahoma Public Employees Retirement
23 System or Pathfinder to the Oklahoma Law Enforcement Retirement
24 System in paragraph 2 of subsection C of this section and the amount
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1 determined by the Board of Trustees pursuant to Section 2-307.5 of
2 Title 47 of the Oklahoma Statutes. The designated law enforcement
3 support staff shall elect to either pay any difference to receive
4 full credit for the years sought to be transferred or receive
5 prorated service credit for only the amount received from the
6 Oklahoma Public Employees Retirement System or Pathfinder pursuant
7 to subsection C of this section. Payments made by electing
8 designated law enforcement support staff pursuant to paragraph 3 of
9 subsection C of this section shall be made pursuant to subsection B
10 of Section 2-307.5 of Title 47 of the Oklahoma Statutes;

11 4. Service credit accrued by a designated law enforcement
12 support staff while a member of the Oklahoma Public Employees
13 Retirement System or Pathfinder shall be treated as credited service
14 for such transferring designated law enforcement support staff in
15 the Oklahoma Public Employees Retirement System or Pathfinder if the
16 designated law enforcement support staff is not receiving or
17 eligible to receive service credit or benefits from said service in
18 any other public retirement system and the member has not received
19 service credit for the same years of service pursuant to Sections 2-
20 307.1, 2-307.3, and 2-307.4 of Title 47 of the Oklahoma Statutes.
21 Provided further that only transferred credited service related to
22 law enforcement service with the participating agencies shall be
23 included in the determination of a law enforcement support staff's
24 normal retirement date or vesting date; and
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1 5. All service credit with the Oklahoma Public Employees
2 Retirement System or Pathfinder which is ineligible for transfer to
3 the Oklahoma Law Enforcement Retirement System shall be cancelled.

4 D. Upon election by the Board, pursuant to subsection A of this
5 section, active law enforcement support staff employed prior to the
6 date of the election and who were not participating in the Oklahoma
7 Public Employees Retirement System or Pathfinder, may, within three
8 (3) months of the date of the election, make an irrevocable written
9 election to participate in the Oklahoma Law Enforcement Retirement
10 System and file the written election with the Oklahoma Law
11 Enforcement Retirement System. Beginning the following month after
12 the System for such designated law enforcement support staff
13 receives the law enforcement support staff's written election, the
14 participating agencies and the electing designated law enforcement
15 support staff shall participate in and make contributions to the
16 System as other participating employers and members of the System.

17 SECTION 2. AMENDATORY 47 O.S. 2021, Section 2-300, as
18 amended by Section 8, Chapter 151, O.S.L. 2023 (47 O.S. Supp. 2023,
19 Section 2-300), is amended to read as follows:

20 Section 2-300. As used in Section 2-300 et seq. of this title:

21 1. "System" means the Oklahoma Law Enforcement Retirement
22 System;

23 2. "Act" means Section 2-300 et seq. of this title;
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1 3. "Board" means the Oklahoma Law Enforcement Retirement Board
2 of the System;

3 4. "Executive Director" means the managing officer of the
4 System employed by the Board;

5 5. "Fund" means the Oklahoma Law Enforcement Retirement Fund;

6 6. a. "Member" means:

7 (1) all commissioned law enforcement officers of the
8 Oklahoma Highway Patrol Division of the
9 Department of Public Safety who have obtained
10 certification from the Council on Law Enforcement
11 Education and Training, and all cadets of a
12 Patrol Academy of the Department of Public
13 Safety,

14 (2) law enforcement officers and criminalists of the
15 Oklahoma State Bureau of Investigation,

16 (3) law enforcement officers of the Oklahoma State
17 Bureau of Narcotics and Dangerous Drugs Control
18 designated to perform duties in the investigation
19 and prevention of crime and the enforcement of
20 the criminal laws of this state,

21 (4) law enforcement officers of the Alcoholic
22 Beverage Laws Enforcement Commission designated
23 to perform duties in the investigation and
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1 prevention of crime and the enforcement of the
2 criminal laws of this state,

3 (5) employees of the Communications Section of the
4 Oklahoma Highway Patrol Division, radio
5 technicians and tower technicians of the
6 Department of Public Safety, who are employed in
7 any such capacity as of June 30, 2008, and who
8 remain employed on or after July 1, 2008, until a
9 termination of service, or until a termination of
10 service with an election of a vested benefit from
11 the System, or until retirement. Effective July
12 1, 2008, a person employed for the first time as
13 an employee of the Department of Public Safety in
14 the Communications Division as an information
15 systems telecommunication technician of the
16 Department of Public Safety shall not be a member
17 of the System,

18 (6) park rangers of the Oklahoma Tourism and
19 Recreation Department and any park manager or
20 park supervisor of the Oklahoma Tourism and
21 Recreation Department, who was employed in such a
22 position prior to July 1, 1985, and who elects on
23 or before September 1, 1996, to participate in
24 the System, ~~and~~

(7) inspectors of the State Board of Pharmacy, and
(8) law enforcement support staff of the
participating agencies, as determined by the
Board.

b. Effective July 1, 1987, a member does not include a
"leased employee" as defined under Section 414(n) (2)
of the Internal Revenue Code of 1986, as amended.
Effective July 1, 1999, any individual who agrees with
the participating employer that the individual's
services are to be performed as a leased employee or
an independent contractor shall not be a member
regardless of any classification as a common-law
employee by the Internal Revenue Service or any other
governmental agency, or any court of competent
jurisdiction.

c. All persons who shall be offered a position of a
commissioned law enforcement officer as an employee of
one of the agencies described in subparagraph a of
this paragraph shall participate in the System upon
the person meeting the requisite post-offer-pre-
employment physical examination standards which shall
be subject to the following requirements:

(1) all such persons shall be of good moral
character, free from deformities, mental or

1 physical conditions, or disease and alcohol or
2 drug addiction which would prohibit the person
3 from performing the duties of a law enforcement
4 officer,

5 (2) the physical-medical examination shall pertain to
6 age, sight, hearing, agility and other conditions
7 the requirements of which shall be established by
8 the Board,

9 (3) the person shall be required to meet the
10 conditions of this subsection prior to the
11 beginning of actual employment but after an offer
12 of employment has been tendered by a
13 participating employer,

14 (4) the Board shall have authority to deny or revoke
15 membership of any person submitting false
16 information in such person's membership
17 application, and

18 (5) the Board shall have final authority in
19 determining eligibility for membership in the
20 System, pursuant to the provisions of this
21 subsection;

22 7. "Normal retirement date" means the date at which the member
23 is eligible to receive the unreduced payments of the member's
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1 accrued retirement benefit. Such date shall be the first day of the
2 month coinciding with or following the date the member:

3 a. completes twenty (20) years of vesting service, or

4 b. attains sixty-two (62) years of age with ten (10)
5 years of vesting service, or

6 c. attains sixty-two (62) years of age, if:

7 (1) the member has been transferred to this System
8 from the Oklahoma Public Employees Retirement
9 System on or after July 1, 1981, and

10 (2) the member would have been vested had the member
11 continued to be a member of the Oklahoma Public
12 Employees Retirement System.

13 With respect to distributions under the System made for calendar
14 years beginning on or after January 1, 2005, the System shall apply
15 the minimum distribution incidental benefit requirements, incidental
16 benefit requirements, and minimum distribution requirements of
17 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
18 in accordance with the final regulations under Section 401(a)(9) of
19 the Internal Revenue Code of 1986, as amended, including Treasury
20 Regulations Sections 1.401(a)(9)-1 through 1.401(a)(9)-9; provided,
21 that for individuals who attain seventy and one-half (70 1/2) years
22 of age after December 31, 2019, but before January 1, 2023, such
23 distributions shall take into account that "age 70 1/2" was stricken
24 and "age 72" was inserted in Sections 401(a)(9)(B)(iv)(I),
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1 401(a)(9)(C)(i)(I) and 401(a)(9)(C)(ii)(I) of the Internal Revenue
2 Code of 1986, as amended, and, provided further, that for
3 individuals who attain seventy-two (72) years of age after December
4 31, 2022, such distributions shall take into account that "age 72"
5 was stricken and "the applicable age", as defined in Section
6 401(a)(9)(C)(v) of the Internal Revenue Code of 1986, as amended,
7 was inserted in Section 401(a)(9)(B)(iv)(I), Section
8 401(a)(9)(C)(i)(I) and Section 401(a)(9)(C)(ii)(I) of the Internal
9 Revenue Code of 1986, as amended, in all cases notwithstanding any
10 provision of the System to the contrary. With respect to
11 distributions under the System made for calendar years beginning on
12 or after January 1, 2001, through December 31, 2004, the System
13 shall apply the minimum distribution requirements and incidental
14 benefit requirements of Section 401(a)(9) of the Internal Revenue
15 Code of 1986, as amended, in accordance with the regulations under
16 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
17 which were proposed in January 2001, notwithstanding any provision
18 of the System to the contrary.

19 Effective July 1, 1989, notwithstanding any other provision
20 contained herein to the contrary, in no event shall commencement of
21 distribution of the accrued retirement benefit of a member be
22 delayed beyond April 1 of the calendar year following the later of:
23 (1) the calendar year in which the member reaches seventy and one-
24 half (70 1/2) years of age for a member who attains this age before
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1 January 1, 2020, or, for a member who attains this age on or after
2 January 1, 2020, but before January 1, 2023, the calendar year in
3 which the member reaches seventy-two (72) years of age, or effective
4 for distributions required to be made after December 31, 2022, the
5 calendar year in which the member reaches seventy-three (73) years
6 of age for an individual who attains age seventy-two (72) after
7 December 31, 2022, or "the applicable age", as defined in Section
8 401(a)(9)(C)(v) of the Internal Revenue Code of 1986, as amended, if
9 later; or (2) the actual retirement date of the member. A member
10 electing to defer the commencement of retirement benefits pursuant
11 to Section 2-308.1 of this title may not defer the benefit
12 commencement beyond the age of sixty-five (65).

13 Effective September 8, 2009, notwithstanding anything to the
14 contrary of the System, the System, which as a governmental plan
15 (within the meaning of Section 414(d) of the Internal Revenue Code
16 of 1986, as amended), is treated as having complied with Section
17 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all
18 years to which Section 401(a)(9) of the Internal Revenue Code of
19 1986, as amended, applies to the System if the System complies with
20 a reasonable and good faith interpretation of Section 401(a)(9) of
21 the Internal Revenue Code of 1986, as amended.

22 A member who was required to join the System effective July 1,
23 1980, because of the transfer of the employing agency from the
24 Oklahoma Public Employees Retirement System to the System, and was
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1 not a member of the Oklahoma Public Employees Retirement System on
2 the date of such transfer shall be allowed to receive credit for
3 prior law enforcement service rendered to this state, if the member
4 is not receiving or eligible to receive retirement credit or
5 benefits for such service in any other public retirement system,
6 upon payment to the System of the employee contribution the member
7 would have been subject to had the member been a member of the
8 System at the time, plus five percent (5%) interest. Service credit
9 received pursuant to this paragraph shall be used in determining the
10 member's retirement benefit, and shall be used in determining years
11 of service for retirement or vesting purposes;

12 8. "Participating agencies" means the Oklahoma Department of
13 Public Safety (DPS), Oklahoma State Bureau of Investigation (OSBI),
14 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
15 (OBNDCC), Oklahoma Alcoholic Beverage Laws Enforcement (ABLE)
16 Commission, Oklahoma Law Enforcement Retirement System (OLERS), and
17 any other agency as determined by the Board;

18 9. "Actual paid base salary" means the salary received by a
19 member, excluding payment for any accumulated leave or uniform
20 allowance. Salary shall include any amount of nonelective salary
21 reduction under Section 414(h) of the Internal Revenue Code of 1986;

22 ~~9.~~ 10. "Final average salary" means the average of the highest
23 thirty (30) consecutive complete months of actual paid gross salary.
24 Gross salary shall include any amount of elective salary reduction
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1 under Section 457 of the Internal Revenue Code of 1986, as amended,
2 and any amount of nonelective salary reduction under Section 414(h)
3 of the Internal Revenue Code of 1986, as amended. Effective July 1,
4 1992, gross salary shall include any amount of elective salary
5 reduction under Section 125 of the Internal Revenue Code of 1986, as
6 amended. Effective July 1, 1998, gross salary shall include any
7 amount of elective salary reduction not includable in the gross
8 income of the member under Section 132(f)(4) of the Internal Revenue
9 Code of 1986, as amended. Effective July 1, 1998, for purposes of
10 determining a member's compensation, any contribution by the member
11 to reduce his or her regular cash remuneration under Section
12 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be
13 treated as if the member did not make such an election. Only salary
14 on which required contributions have been made may be used in
15 computing the final average salary. Gross salary shall not include
16 severance pay.

17 In addition to other applicable limitations, and notwithstanding
18 any other provision to the contrary, for plan years beginning on or
19 after July 1, 2002, the annual gross salary of each "Noneligible
20 Member" taken into account under the System shall not exceed the
21 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")
22 annual salary limit. The EGTRRA annual salary limit is Two Hundred
23 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for
24 increases in the cost of living in accordance with Section
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1 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The
2 annual salary limit in effect for a calendar year applies to any
3 period, not exceeding twelve (12) months, over which salary is
4 determined ("determination period") beginning in such calendar year.
5 If a determination period consists of fewer than twelve (12) months,
6 the EGTRRA salary limit will be multiplied by a fraction, the
7 numerator of which is the number of months in the determination
8 period, and the denominator of which is twelve (12). For purposes
9 of this section, a "Noneligible Member" is any member who first
10 became a member during a plan year commencing on or after July 1,
11 1996.

12 For plan years beginning on or after July 1, 2002, any reference
13 in the System to the annual salary limit under Section 401(a)(17) of
14 the Internal Revenue Code of 1986, as amended, shall mean the EGTRRA
15 salary limit set forth in this provision.

16 Effective January 1, 2008, gross salary for a plan year shall
17 also include gross salary, as described above, for services, but
18 paid by the later of two and one-half (2 1/2) months after a
19 member's severance from employment or the end of the calendar year
20 that includes the date the member terminated employment, if it is a
21 payment that, absent a severance from employment, would have been
22 paid to the member while the member continued in employment with the
23 employer.
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1 Effective January 1, 2008, any payments not described above
2 shall not be considered gross salary if paid after severance from
3 employment, even if they are paid by the later of two and one-half
4 (2 1/2) months after the date of severance from employment or the
5 end of the calendar year that includes the date of severance from
6 employment, except payments to an individual who does not currently
7 perform services for the employer by reason of qualified military
8 service within the meaning of Section 414(u)(5) of the Internal
9 Revenue Code of 1986, as amended, to the extent these payments do
10 not exceed the amounts the individual would have received if the
11 individual had continued to perform services for the employer rather
12 than entering qualified military service.

13 Effective January 1, 2008, back pay, within the meaning of
14 Section 1.415(c)-2(g)(8) of the Income Tax Regulations, shall be
15 treated as gross salary for the limitation year to which the back
16 pay relates to the extent the back pay represents wages and
17 compensation that would otherwise be included in this definition.

18 Effective for years beginning after December 31, 2008, gross
19 salary shall also include differential wage payments under Section
20 414(u)(12) of the Internal Revenue Code of 1986, as amended;

21 ~~10.~~ 11. "Credited service" means the period of service used to
22 determine the amount of benefits payable to a member. Credited
23 service shall consist of the period during which the member
24 participated in the System or the predecessor Plan as an active
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1 employee in an eligible membership classification, plus any service
2 prior to the establishment of the predecessor Plan which was
3 credited under the predecessor Plan and for law enforcement officers
4 and criminalists of the Oklahoma State Bureau of Investigation and
5 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
6 who became members of the System on July 1, 1980, any service
7 credited under the Oklahoma Public Employees Retirement System as of
8 June 30, 1980, and for members of the Communications and Lake Patrol
9 Divisions of the Oklahoma Department of Public Safety, who became
10 members of the System on July 1, 1981, any service credited under
11 the predecessor Plan or the Oklahoma Public Employees Retirement
12 System as of June 30, 1981, and for law enforcement officers of the
13 Alcoholic Beverage Laws Enforcement Commission who became members of
14 the System on July 1, 1982, any service credited under the Oklahoma
15 Public Employees Retirement System as of June 30, 1982, and for park
16 rangers of the Oklahoma Tourism and Recreation Department who became
17 members of the System on July 1, 1985, any service credited under
18 the Oklahoma Public Employees Retirement System as of June 30, 1985,
19 and for inspectors of the State Board of Pharmacy who became members
20 of the System on July 1, 1986, any service credited under the
21 Oklahoma Public Employees Retirement System as of June 30, 1986, for
22 law enforcement officers of the Oklahoma Capitol Patrol Division of
23 the Department of Public Safety who became members of the System
24 effective July 1, 1993, any service credited under the Oklahoma

1 Public Employees Retirement System as of June 30, 1993, and for all
2 commissioned officers in the Gunsmith/Ammunition Reloader Division
3 of the Department of Public Safety who became members of the System
4 effective July 1, 1994, any service credited under the Oklahoma
5 Public Employees Retirement System as of June 30, 1994, and for the
6 park managers or park supervisors of the Oklahoma Tourism and
7 Recreation Department who were employed in such a position prior to
8 July 1, 1985, and who elect to become members of the System
9 effective September 1, 1996, any service transferred pursuant to
10 subsection C of Section 2-309.6 of this title and any service
11 purchased pursuant to subsection B of Section 2-307.2 of this title.
12 Effective August 5, 1993, an authorized leave of absence shall
13 include a period of absence pursuant to the Family and Medical Leave
14 Act of 1993;

15 ~~11.~~ 12. "Disability" means a physical or mental condition
16 which, in the judgment of the Board, totally and presumably
17 permanently prevents the member from engaging in the usual and
18 customary duties of the occupation of the member and thereafter
19 prevents the member from performing the duties of any occupation or
20 service for which the member is qualified by reason of training,
21 education or experience. A person is not under a disability when
22 capable of performing a service to the employer, regardless of
23 occupation, providing the salary of the employee is not diminished
24 thereby;
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1 ~~12.~~ 13. "Limitation year" means the year used in applying the
2 limitations of Section 415 of the Internal Revenue Code of 1986,
3 which year shall be the calendar year;

4 ~~13.~~ 14. "Line of duty" means any action which a member whose
5 primary function is crime control or reduction or enforcement of the
6 criminal law is obligated or authorized by rule, regulations,
7 condition of employment or service, or law to perform including
8 those social, ceremonial or athletic functions to which the member
9 is assigned, or for which the member is compensated, by the agency
10 the member serves;

11 ~~14.~~ 15. "Personal injury" or "injury" means any traumatic
12 injury as well as diseases which are caused by or result from such
13 an injury, but not occupational diseases;

14 ~~15.~~ 16. "Catastrophic nature" means consequences of an injury
15 that permanently prevent an individual from performing any gainful
16 work;

17 ~~16.~~ 17. "Traumatic injury" means a wound or a condition of the
18 body caused by external force including injuries inflicted by
19 bullets, explosives, sharp instruments, blunt objects or other
20 physical blows, chemicals, electricity, climatic conditions,
21 infectious diseases, radiation and bacteria, but excluding stress
22 and strain; and

23 ~~17.~~ 18. "Beneficiary" means the individual designated by the
24 member on a beneficiary designation form supplied by the Oklahoma
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1 Law Enforcement Retirement System, or, if there is no designated
2 beneficiary or if the designated beneficiary predeceases the member,
3 the estate of the member. If the member's spouse is not designated
4 as the sole primary beneficiary, the member's spouse must sign a
5 consent.

6 SECTION 3. This act shall become effective November 1, 2024.

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8 59-2-9475 CMA 01/10/24
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THOMAS E. CUMMINS CONSULTING ACTUARY, INC.

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January 15, 2024

Representative Burns
Room 300.4

Re: RBH No. 9475

RBH No. 9475 would allow a participating agency to make an election to permit support staff of CLEET certified law enforcement officer to become participants of OLERS.

New hires would automatically become OLERS participants. Existing participants of OPERS and Pathfinder may elect to become participants of OLERS. Past service credit to be purchased at actuarial cost.

RBH No. 9475 is a fiscal 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