

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2461 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Dick Lowe

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 2461

By: Lowe (Dick)

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to public retirement systems; enacting the Andy Davis Memorial Pension Benefits Act of 2021; 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; amending 11 O.S. 2011, Sections 49-113.2, as last amended by Section 2, Chapter 346, O.S.L. 2019 and 50-115.2, as amended by Section 4, Chapter 44, O.S.L. 2014 (11 O.S. Supp. 2020, Sections 49-113.2 and 50-115.2), which relate to death benefits; amending 47 O.S. 2011, Section 2-306.3, as amended by Section 3, Chapter 37, O.S.L. 2014 (47 O.S. Supp. 2020, Section 2-306.3), which relates to death benefits; providing for an adjustment to death benefits for certain employees; providing for noncodification; and providing effective dates.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Andy Davis Memorial Pension Benefits Act of 2021."

1 SECTION 2. AMENDATORY 62 O.S. 2011, Section 3103, as
2 last amended by Section 1, Chapter 121, O.S.L. 2020 (62 O.S. Supp.
3 2020, Section 3103), is amended to read as follows:

4 Section 3103. As used in the Oklahoma Pension Legislation
5 Actuarial Analysis Act:

6 1. "Amendment" means any amendment, including a substitute
7 bill, made to a retirement bill by any committee of the House or
8 Senate, any conference committee of the House or Senate or by the
9 House or Senate;

10 2. "RB number" means that number preceded by the letters "RB"
11 assigned to a retirement bill by the respective staffs of the
12 Oklahoma State Senate and the Oklahoma House of Representatives when
13 the respective staff office prepares a retirement bill for a member
14 of the Legislature;

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

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

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

- 1 a. which does not affect the cost or funding factors of a
2 retirement system,
- 3 b. which affects such factors only in a manner which does
4 not:
- 5 (1) grant a benefit increase under the retirement
6 system affected by the bill,
- 7 (2) create an actuarial accrued liability for or
8 increase the actuarial accrued liability of the
9 retirement system affected by the bill, or
- 10 (3) increase the normal cost of the retirement system
11 affected by the bill,
- 12 c. which authorizes the purchase by an active member of
13 the retirement system, at the actuarial cost for the
14 purchase as computed pursuant to the statute in effect
15 on the effective date of the measure allowing such
16 purchase, of years of service for purposes of reaching
17 a normal retirement date in the applicable retirement
18 system, but which cannot be used in order to compute
19 the number of years of service for purposes of
20 computing the retirement benefit for the member,
- 21 d. which provides for the computation of a service-
22 connected disability retirement benefit for members of
23 the Oklahoma Law Enforcement Retirement System
24 pursuant to Section 2-305 of Title 47 of the Oklahoma

- 1 Statutes if the members were unable to complete twenty
2 (20) years of service as a result of the disability,
3 e. which requires membership in the defined benefit plan
4 authorized by Section 901 et seq. of Title 74 of the
5 Oklahoma Statutes for persons whose first elected or
6 appointed service occurs on or after November 1, 2018,
7 if such persons had any prior service in the Oklahoma
8 Public Employees Retirement System prior to November
9 1, 2015,
- 10 f. which provides for a one-time increase in retirement
11 benefits if the increase in retirement benefits is not
12 a permanent increase in the gross annual retirement
13 benefit payable to a member or beneficiary, occurs
14 only once pursuant to a single statutory authorization
15 and does not exceed:
- 16 (1) the lesser of two percent (2%) of the gross
17 annual retirement benefit of the member or One
18 Thousand Dollars (\$1,000.00) and requires that
19 the benefit may only be provided if the funded
20 ratio of the affected retirement system would not
21 be less than sixty percent (60%) but not greater
22 than eighty percent (80%) after the benefit
23 increase is paid,
24

- 1 (2) the lesser of two percent (2%) of the gross
2 annual retirement benefit of the member or One
3 Thousand Two Hundred Dollars (\$1,200.00) and
4 requires that the benefit may only be provided if
5 the funded ratio of the affected retirement
6 system would be greater than eighty percent (80%)
7 but not greater than one hundred percent (100%)
8 after the benefit increase is paid,
- 9 (3) the lesser of two percent (2%) of the gross
10 annual retirement benefit of the member or One
11 Thousand Four Hundred Dollars (\$1,400.00) and
12 requires that the benefit may only be provided if
13 the funded ratio of the affected retirement
14 system would be greater than one hundred percent
15 (100%) after the benefit increase is paid, or
- 16 (4) the greater of two percent (2%) of the gross
17 annual retirement benefit of the volunteer
18 firefighter or One Hundred Dollars (\$100.00) for
19 persons who retired from the Oklahoma
20 Firefighters Pension and Retirement System as
21 volunteer firefighters and who did not retire
22 from the Oklahoma Firefighters Pension and
23 Retirement System as a paid firefighter.
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1 As used in this subparagraph, "funded ratio" means the
2 figure derived by dividing the actuarial value of
3 assets of the applicable retirement system by the
4 actuarial accrued liability of the applicable
5 retirement system, ~~or~~

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

9 h. which provides an adjustment to death benefits
10 pursuant to the provisions of this act.

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

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

22 7. "Retirement bill" means any bill or joint resolution
23 introduced or any bill or joint resolution amended by a member of
24 the Oklahoma Legislature which creates or amends any law directly

1 affecting a retirement system. A retirement bill shall not mean a
2 bill or resolution that impacts the revenue of any state tax in
3 which a portion of the revenue generated from such tax is earmarked
4 for the benefit of a retirement system;

5 8. "Retirement bill having a fiscal impact" means any
6 retirement bill creating or establishing a retirement system and any
7 other retirement bill other than a nonfiscal retirement bill; and

8 9. "Retirement system" means the Teachers' Retirement System of
9 Oklahoma, the Oklahoma Public Employees Retirement System, the
10 Uniform Retirement System for Justices and Judges, the Oklahoma
11 Firefighters Pension and Retirement System, the Oklahoma Police
12 Pension and Retirement System, the Oklahoma Law Enforcement
13 Retirement System, or a retirement system established after January
14 1, 2006.

15 SECTION 3. AMENDATORY 11 O.S. 2011, Section 49-113.2, as
16 last amended by Section 2, Chapter 346, O.S.L. 2019 (11 O.S. Supp.
17 2020, Section 49-113.2), is amended to read as follows:

18 Section 49-113.2 A. Upon the death of an active or retired
19 member, the System shall pay to the surviving spouse of the member
20 if the surviving spouse has been married to the firefighter for
21 thirty (30) continuous months preceding the member's death provided
22 a surviving spouse of a member who died while in, or as a
23 consequence of, the performance of the member's duty for a
24 participating municipality shall not be subject to the marriage

1 limitation for survivor benefits, or if there is no surviving spouse
2 or no surviving spouse meeting the requirements of this section, the
3 System shall pay to the designated recipient or recipients of the
4 member, or if there is no designated recipient or if the designated
5 recipient predeceases the member, to the estate of the member, the
6 sum of Four Thousand Dollars (\$4,000.00) for those active or retired
7 members who died prior to July 1, 1999. For those active or retired
8 members who die on or after July 1, 1999, and prior to July 1, 2021,
9 the sum shall be Five Thousand Dollars (\$5,000.00). For those
10 active or retired members who die on or after July 1, 2021, the sum
11 shall be Fifteen Thousand Dollars (\$15,000.00).

12 B. Upon the death of a member who dies leaving no living
13 designated recipient or having designated the member's estate as
14 recipient, the System may pay any applicable death benefit described
15 in subsection A of this section which may be subject to probate, ~~in~~
16 ~~an amount of Five Thousand Dollars (\$5,000.00),~~ to the heir or heirs
17 of the member without the intervention of a probate court or probate
18 procedures.

19 C. Before any applicable probate procedure may be waived, the
20 System must be in receipt of the member's proof of death and the
21 following documents from those persons claiming to be the legal
22 heirs of the deceased member:

- 23 1. The member's last will and testament if available;
- 24 2. An affidavit or affidavits of heirship which must contain:

- 1 a. the names and signatures of all claiming heirs to the
2 deceased member's estate including the claiming heirs'
3 names, relationship to the deceased member, current
4 addresses and current telephone numbers,
- 5 b. a statement or statements by the claiming heirs that
6 no application or petition for the appointment of a
7 personal representative is pending or has been granted
8 in any jurisdiction,
- 9 c. a statement that the value of the deceased member's
10 entire probate estate, less liens and encumbrances,
11 does not exceed the dollar limit pursuant to Section
12 393 of Title 58 of the Oklahoma Statutes, including
13 the payment of benefits from the System, and
- 14 d. a statement by each individual claiming heir
15 identifying the amount of personal property that the
16 heir is claiming from the System or the amount the
17 heir agrees to be paid to another person, and that the
18 heir has been notified of, is aware of and consents to
19 the identified claims of all the other claiming heirs
20 of the deceased member pending with the System;

21 3. A written agreement or agreements signed by all claiming
22 heirs of the deceased member which provides that the claiming heirs
23 release, discharge and hold harmless the System from any and all
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1 liability, obligations and costs which it may incur as a result of
2 making a payment to any of the deceased member's heirs;

3 4. A corroborating affidavit from an individual other than a
4 claiming heir, who was familiar with the affairs of the deceased
5 member; and

6 5. Proof that funeral and burial expenses of the deceased
7 member have been paid or provided for.

8 D. The System shall retain complete discretion in determining
9 which requests for probate waiver may be granted or denied, for any
10 reason. Should the System have any questions as to the validity of
11 any document presented by the claiming heirs, or as to any statement
12 or assertion contained therein, the probate requirements provided
13 for in Section 1 et seq. of Title 58 of the Oklahoma Statutes shall
14 not be waived.

15 E. After paying any death benefits to any claiming heirs as
16 provided pursuant to this section, the System is discharged and
17 released from any and all liability, obligation and costs to the
18 same extent as if the System had paid a personal representative
19 holding valid letters testamentary issued by a court of competent
20 jurisdiction. The System is not required to inquire into the truth
21 of any matter specified in this section or into the payment of any
22 estate tax liability.

1 F. The provisions of this section shall not be subject to
2 qualified domestic orders as provided in subsection B of Section 49-
3 126 of this title.

4 G. 1. For purposes of this section, if a person makes a
5 qualified disclaimer with respect to the death benefit provided for
6 in subsection A of this section, this section shall apply with
7 respect to such death benefit as if the death benefit had never been
8 transferred to such person.

9 2. For purposes of this subsection, the term "qualified
10 disclaimer" means an irrevocable and unqualified refusal by a
11 person, including but not limited to the surviving spouse of the
12 deceased member, to accept an interest in the death benefit provided
13 for in subsection A of this section, but only if:

- 14 a. such refusal is in writing,
- 15 b. such writing is received by the System not later than
16 the date which is nine (9) months after the date of
17 death of the deceased member,
- 18 c. such person has not accepted the death benefit
19 provided for in subsection A of this section, and
- 20 d. as a result of such refusal, the death benefit
21 provided for in subsection A of this section passes
22 without any direction on the part of the person making
23 the disclaimer and passes first, to the organization
24 providing funeral and burial services for the deceased

1 member or, if the cost of the funeral and burial
2 services for the deceased member has already been
3 paid, to the person or persons other than the person
4 making the disclaimer as further provided for in this
5 section.

6 SECTION 4. AMENDATORY 11 O.S. 2011, Section 50-115.2, as
7 amended by Section 4, Chapter 44, O.S.L. 2014 (11 O.S. Supp. 2020,
8 Section 50-115.2), is amended to read as follows:

9 Section 50-115.2 Upon the death of an active or retired member,
10 the Oklahoma Police Pension and Retirement System shall pay to the
11 beneficiary of the member or if there is no beneficiary or if the
12 beneficiary predeceases the member, to the estate of the member, the
13 sum of Four Thousand Dollars (\$4,000.00) as a death benefit for
14 those active or retired members who died prior to July 1, 1999. For
15 those active or retired members who die on or after July 1, 1999,
16 but prior to July 1, 2021, the sum shall be Five Thousand Dollars
17 (\$5,000.00). For those active or retired members who die on or
18 after July 1, 2021, the sum shall be Fifteen Thousand Dollars
19 (\$15,000.00).

20 SECTION 5. AMENDATORY 47 O.S. 2011, Section 2-306.3, as
21 amended by Section 3, Chapter 37, O.S.L. 2014 (47 O.S. Supp. 2020,
22 Section 2-306.3), is amended to read as follows:

23 Section 2-306.3 Upon the death of an active or retired member,
24 the Oklahoma Law Enforcement Retirement System shall pay to the

1 designated beneficiary of the member as defined in paragraph 17 of
2 Section 2-300 of this title or if there is no such designated
3 beneficiary or if such designated beneficiary predeceases the
4 member, to the estate of the member, the sum of Four Thousand
5 Dollars (\$4,000.00) as a death benefit for those active or retired
6 members who died prior to July 1, 1999. For those active or retired
7 members who die on or after July 1, 1999, but prior to July 1, 2021,
8 the sum shall be Five Thousand Dollars (\$5,000.00). For those
9 active or retired members who die on or after July 1, 2021, the sum
10 shall be Fifteen Thousand Dollars (\$15,000.00).

11 SECTION 6. Sections 1 and 2 of this act shall become effective
12 October 1, 2021.

13 SECTION 7. Sections 3, 4 and 5 of this act shall become
14 effective November 1, 2021.

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16 58-1-7293 MAH 02/04/21

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