

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 1391

By: Bashore

AS INTRODUCED

An Act relating to public retirement systems; amending 62 O.S. 2022, Section 3103, as last amended by Section 1, Chapter 306, O.S.L. 2022 (62 O.S. Supp. 2022, Section 3103), which relates to the Oklahoma Pension Legislation Actuarial Analysis Act; modifying definition; amending 74 O.S. 2021, Section 914, which relates to retirement; modifying period of time required with respect to post-retirement employment; providing effective dates; providing for contingent effective dates based on outcome of approval of the emergency clause; and declaring an emergency.

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

SECTION 1. AMENDATORY 62 O.S 2022, Section 3103, as last amended by Section 1, Chapter 306, O.S.L. 2022 (62 O.S. Supp. 2022, Section 3103v4), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 19 g. which modifies the disability pension standard for
20 police officers who are members of the Oklahoma Police
21 Pension and Retirement System as provided by Section 3
22 of this act,
- 23 h. which provides a cost-of-living benefit increase
24 pursuant to the provisions of:

- 1 (1) Section 49-143.7 of Title 11 of the Oklahoma
- 2 Statutes,
- 3 (2) Section 50-136.9 of Title 11 of the Oklahoma
- 4 Statutes,
- 5 (3) Section 1104K of Title 20 of the Oklahoma
- 6 Statutes,
- 7 (4) Section 2-305.12 of Title 47 of the Oklahoma
- 8 Statutes,
- 9 (5) Section 17-116.22 of Title 70 of the Oklahoma
- 10 Statutes,
- 11 (6) Section 930.11 of Title 74 of the Oklahoma
- 12 Statutes, or
- 13 i. which modifies the computation of the line-of-duty
- 14 disability benefit pursuant to the provisions of this
- 15 act, or
- 16 j. which modifies the provisions related to post-
- 17 retirement employment for the Oklahoma Public
- 18 Employees Retirement System as provided by Section 2
- 19 of this act.

20 A nonfiscal retirement bill shall include any retirement bill that

21 has as its sole purpose the appropriation or distribution or

22 redistribution of monies in some manner to a retirement system for

23 purposes of reducing the unfunded liability of such system or the

24 earmarking of a portion of the revenue from a tax to a retirement

1 system or increasing the percentage of the revenue earmarked from a
2 tax to a retirement system;

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

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

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

17 9. "Retirement system" means the Teachers' Retirement System of
18 Oklahoma, the Oklahoma Public Employees Retirement System, the
19 Uniform Retirement System for Justices and Judges, the Oklahoma
20 Firefighters Pension and Retirement System, the Oklahoma Police
21 Pension and Retirement System, the Oklahoma Law Enforcement
22 Retirement System, or a retirement system established after January
23 1, 2006.

1 SECTION 2. AMENDATORY 74 O.S. 2021, Section 914, is
2 amended to read as follows:

3 Section 914. A. The normal retirement date for a member of the
4 Oklahoma Public Employees Retirement System shall be as defined in
5 Section 902 of this title, provided members employed on or after
6 January 1, 1983, shall have six (6) or more years of full-time-
7 equivalent employment with a participating employer before receiving
8 any retirement benefits or if the member is a legislative session
9 employee of the Legislature, shall have three (3) or more years of
10 full-time-equivalent employment with a participating employer before
11 receiving any retirement benefits. In no event shall a normal
12 retirement date for a member be before six (6) months after the
13 entry date of the participating employer by whom he or she is
14 employed.

15 B. A member may be employed beyond the normal retirement date
16 by the appointing authority of the participating employer. However,
17 the member may not receive retirement pay so long as the member
18 continues employment under this act. Any member who has terminated
19 employment with a participating employer prior to the month
20 immediately preceding said member's normal retirement date must
21 elect a vested benefit pursuant to Section 917 of this title before
22 receiving any retirement benefits.

23 C. Notice for retirement shall be filed through the retirement
24 coordinator for the participating employer in such form and manner

1 as the Board shall prescribe; provided, that such notice for
2 retirement shall be filed with the office of the retirement system
3 at least sixty (60) days prior to the date selected for the member's
4 retirement; provided further, that the Executive Director may waive
5 the sixty-day notice for good cause shown as defined by the Board.

6 1. The participating employer shall provide the System with the
7 following information for a retiring member, no later than the
8 fifteenth day of the month of retirement: last day physically on
9 the job; last day on payroll; and final unused sick leave balance.

10 2. Failure to submit this information by the deadline, or
11 errors in submitted information that result in a disqualification of
12 retirement eligibility shall be the responsibility of the
13 participating employer. In cases where the error results in
14 disqualification of retirement eligibility, it is the participating
15 employer's responsibility to reemploy the member, or retain the
16 member on the payroll, for time period required to reach
17 eligibility, not exceeding two (2) months.

18 D. No retirement benefits shall be payable to any member until
19 the first day of the month following the termination of the member's
20 employment with any participating employer. The type of retirement
21 benefit selected by a member may not be changed on or after the
22 effective date of the member's retirement. Receipt of workers'
23 compensation benefits shall in no respect disqualify the retiree for
24 benefits.

1 E. If a retiree should be elected or appointed to any position
2 or office for which compensation for service is paid from levies or
3 taxes imposed by the state or any political subdivision thereof, the
4 retiree shall not receive any retirement benefit for any month for
5 which the retiree serves in such position or office after the
6 retiree has received compensation in a sum equal to the amount
7 allowable as wages or earnings by the Social Security Administration
8 in any calendar year. This subsection shall not apply to service
9 rendered by a retiree as a juror, as a witness in any legal
10 proceeding or action, as an election board judge or clerk, or in any
11 other office or position of a similar nature, or to an employer that
12 is not a participating employer. Provided, further, that any
13 participating employer who is employing such a retiree shall make
14 proper written notification to the System informing it of the
15 beginning date of such retiree's employment and the date such
16 retiree reaches the maximum compensation allowed by this section in
17 the calendar year. Any retiree returning to work for a
18 participating employer shall make contributions to the System and
19 the employer shall do likewise. All retirees who have returned to
20 employment and participation in the System following retirement
21 shall have post-retirement benefits calculated on one of the
22 following methods:

23 1. All service accumulated from date of reemployment shall be
24 computed based on the benefit formula applicable at that time and

1 the additional benefits shall be added to the previous benefits.
2 Such additional benefits shall be calculated each year based upon
3 additional service accrued from July 1 to June 30 of the previous
4 year and the additional benefit, if any, will be added to the
5 retiree's monthly benefit beginning January 1, 2000, and each
6 January 1 thereafter. However, the post-retirement service credit
7 shall be cumulative, beginning with service credit accrued after the
8 date of retirement, provided that the retiree has not received a
9 distribution of the post-retirement contributions.

10 2. Any retiree who returns to employment with a participating
11 employer may elect not to receive any retirement benefits while so
12 reemployed. If such an election is made and reemployment is for a
13 minimum period of thirty-six (36) consecutive months, all service
14 accumulated from date of reemployment shall be participating
15 service. For purposes of determining the retirement benefits of
16 such a member upon the termination of such reemployment all
17 creditable service of the member shall be computed based on the
18 benefit formula applicable at the time of termination of such
19 reemployment. Provided, a retiree who became reemployed prior to
20 July 1, 1982, and who is reemployed for a minimum of thirty-six (36)
21 consecutive months shall have all the creditable service of such
22 retiree computed based on the benefit formula applicable at the time
23 of termination of such reemployment if the retiree elects not to
24 receive retirement benefits prior to such termination of

1 reemployment. A retiree who has waived receipt of the monthly
2 benefit, but is not reemployed for the full thirty-six (36)
3 consecutive months, shall upon termination of such reemployment have
4 only the additional amount added to his or her benefit as if they
5 had not waived the benefit as provided in paragraph 1 of this
6 subsection.

7 3. All post-retirement additional benefits shall be calculated
8 using actual hours worked as well as the actual compensation
9 received and upon which contributions are paid. Post-retirement
10 service is not subject to the partial year round-up provisions of
11 subsection C of Section 913 of this title.

12 4. A retired member who returns to work for a participating
13 employer pursuant to this section shall be bound by the election
14 made pursuant to paragraph (2) of subsection A of Section 915 of
15 this title if the member had made such election prior to retirement.
16 If the member had not made such election prior to retirement, the
17 member may do so during the member's reemployment with a
18 participating employer pursuant to this section. A retired member
19 may not be rehired by their former employer, nor may the retired
20 member be permitted to enter into an employment contract of any kind
21 with a former employer, for a period of ~~one (1) year~~ six (6) months
22 after the retired member ended his or her employment with the former
23 employer unless the retired member waives his or her benefit under
24 paragraph 2 of this subsection and returns as a bona fide employee.

1 F. Except as otherwise provided by subsection G of this
 2 section, any member may elect to retire before his or her normal
 3 retirement date on the first day of any month coinciding with or
 4 following the attainment of age fifty-five (55), provided such
 5 member has completed ten (10) years of participating service, but in
 6 no event before six (6) months after the entry date. Any member who
 7 shall retire before the normal retirement date shall receive an
 8 annual retirement benefit adjusted in accordance with the following
 9 percentage schedule:

10		Percentage of Normal
11	Age	Retirement Benefit
12	62	100.00%
13	61	93.33%
14	60	86.67%
15	59	80.00%
16	58	73.33%
17	57	66.67%
18	56	63.33%
19	55	60.00%

20 G. Any member whose first participating service occurs on or
 21 after November 1, 2011, may elect to retire before his or her normal
 22 retirement date on the first day of any month coinciding with or
 23 following the attainment of age sixty (60), provided such member has
 24 completed ten (10) years of participating service, but in no event

1 before six (6) months after the entry date. Any member who shall
 2 retire before the normal retirement date shall receive an annual
 3 retirement benefit adjusted in accordance with the following
 4 percentage schedule:

		Percentage of Normal
	Age	Retirement Benefit
7	65	100.00%
8	64	93.33%
9	63	86.67%
10	62	80.00%
11	61	73.33%
12	60	66.67%

13 SECTION 3. If the Emergency Clause is not approved pursuant to
 14 the requirements of the Oklahoma Constitution as part of this
 15 measure, the effective date of Section 1 of this act shall be
 16 October 1, 2023.

17 SECTION 4. If the Emergency Clause is not approved pursuant to
 18 the requirements of the Oklahoma Constitution as part of this
 19 measure, the effective date of Section 2 of this act shall be
 20 November 1, 2023.

21 SECTION 5. Except as otherwise provided by Section 3 of this
 22 act, Section 1 of this act shall become effective immediately upon
 23 signature by the Governor or as otherwise provided by Section 58 of
 24 Article V of the Oklahoma Constitution.

1 SECTION 6. Except as otherwise provided by Section 4 of this
2 act, Section 2 of this act shall become effective July 1, 2023.

3 SECTION 7. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

7

8 59-1-5691 CMA 12/16/22

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

THOMAS E. CUMMINS CONSULTING ACTUARY, INC.
2512 E. 71st Street , Suite D • Tulsa, Oklahoma 74136
(918) 492-9658 • (918) 492- 9659

December 29, 2022

Representative Steve Bashore
Room 248.2

Re: RHB No. 5691

RBH No. 5691 allows OPERS retired participants to return to employment after being retired for at least 6 months and continue receive retirement benefits. Current law requires 1 year.

This bill modifies OPLAAA definition of a non fiscal bill to include the above change.

RBH No. 5691 is a nonfiscal bill as defined by OPLAAA because of the change in definition.

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