

STATE OF OKLAHOMA

1st Extraordinary Session of the 56th Legislature (2017)

HOUSE BILL 1067

By: Taylor

AS INTRODUCED

An Act relating to forfeiture of retirement benefits; providing for determinations of dishonorable conduct by legislator; providing for determination by action of either the Oklahoma House of Representatives or the Oklahoma State Senate; providing for determination by the Attorney General; providing for effect of determination on retirement benefits; requiring certain legislators to execute waiver and release; providing for effect of release; amending 74 O.S. 2011, Section 913.4, as last amended by Section 2, Chapter 94, O.S.L. 2017 (74 O.S. Supp. 2017, Section 913.4), which relates to benefits for elected officials in the Oklahoma Public Employees Retirement System; providing for forfeiture of contributions and investment gains in certain plan accounts pursuant to the provisions of the Retirement Freedom Act; 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 4265 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. A legislator that is determined to have engaged in dishonorable conduct pursuant to action approved by a majority of those elected to and constituting the chamber of the Legislature to

1 which the member was elected or determined by the Attorney General
2 to have engaged in dishonorable conduct shall be required to forfeit
3 any unencumbered balance in the legislator's campaign account.

4 B. Such balance shall be transferred by the legislator or a
5 person authorized to make a transfer from the account in which such
6 funds are held within ten (10) days of the determination authorized
7 by subsection A of this section to the State Election Board in order
8 to offset costs related to the conduct of a special election
9 required to fill the vacancy and may also be expended by the State
10 Election Board in order to perform the duties imposed upon the Board
11 by law.

12 C. A legislator determined to have engaged in dishonorable
13 conduct as provided in subsection A of this section shall forfeit
14 any retirement benefits accrued as a result of service as a
15 legislator. The provisions of this subsection shall be applicable
16 to a legislator who has service credit as an elected official
17 pursuant to the provisions of Section 901 et seq. of Title 74 of the
18 Oklahoma Statutes and to any and all employee contribution amounts,
19 employer matching amounts and investment gains in the legislator's
20 account or accounts created pursuant to the provisions of Section
21 935.1 et seq. of Title 74 of the Oklahoma Statutes.

22 D. A legislator that begins a term of office in either the
23 Oklahoma House of Representatives or the Oklahoma State Senate after
24 the General Election in November 2018 shall be required to sign a

1 waiver and release, in such form as may be prescribed by the
2 Oklahoma Public Employees Retirement System, which acknowledges that
3 the legislator understands that a determination of dishonorable
4 conduct pursuant to the provisions of subsection A of this section
5 will result in the forfeiture of the legislator's retirement
6 benefits with respect to any period of legislative service and that
7 the legislator releases the Oklahoma Public Employees Retirement
8 System from any liability arising from such forfeiture.

9 SECTION 2. AMENDATORY 74 O.S. 2011, Section 913.4, as
10 last amended by Section 2, Chapter 94, O.S.L. 2017 (74 O.S. Supp.
11 2017, Section 913.4), is amended to read as follows:

12 A. 1. Except as otherwise provided in this subsection, an
13 elected official may elect to participate in the System and if he or
14 she elects to do so shall have the option of participating at any
15 one of the computation factors set forth in paragraph 3 or 4 of this
16 subsection and will receive retirement benefits in accordance with
17 the computation factor chosen. The election on participation in the
18 System must be in writing, must specify the computation factor
19 chosen, and must be filed with the System within ninety (90) days
20 after the elected official takes office. The election to
21 participate and the election of a computation factor shall be
22 irrevocable. Reelection to the same office will not permit new
23 elections. Failure of an elected official to file such election
24 form within the ninety-day period shall be deemed an irrevocable

1 election to participate in the System at the maximum computation
 2 factor.

3 2. Contributions and benefits will be based upon the elected
 4 official's annual compensation as defined in Section 902 of this
 5 title. Employer and elected official contributions shall be
 6 remitted at least monthly, or as the Board may otherwise provide, to
 7 the System for deposit in the Oklahoma Public Employees Retirement
 8 Fund. Effective July 1, 1994, and thereafter, the participating
 9 employer shall contribute as provided in Section 920 of this title.

10 3. Except as provided in paragraph 4 of this subsection,
 11 effective July 1, 1994, the computation factor selected and the
 12 corresponding elected official contribution rate shall be as
 13 follows:

Elected official	Computation	Alternate
Contribution Rate	Factor	Formula
4.5%	1.9%	\$12.50
6%	2.5%	\$20.00
7.5%	3.0%	\$25.00
8.5%	3.4%	\$27.50
9%	3.6%	\$30.00
10%	4.0%	\$40.00

22 4. Elected officials who are first elected or appointed to an
 23 elected office on or after November 1, 2010, shall elect a
 24 computation factor of either 1.9% or 4%. The elected official

1 contribution rate for the 1.9% computation factor is currently 4.5%
2 and the contribution rate for the 4% computation factor is currently
3 10%. All other computation factors and contribution rates set forth
4 in paragraph 3 of this subsection shall not be available to any
5 person first elected or appointed to an elected office on or after
6 November 1, 2010.

7 5. The contribution rate for elected officials who are first
8 elected or appointed to an elected office on or after November 1,
9 2011, shall be in the amount specified in paragraph (a) of
10 subsection (1) of Section 919.1 of this title. The amount of the
11 retirement benefit for elected officials who are first elected or
12 appointed to an elected office on or after November 1, 2011, shall
13 be based on the provisions of paragraph (1) of subsection A of
14 Section 915 of this title.

15 6. The computation factors and corresponding elected official
16 contribution rates provided for in paragraphs 3 and 4 of this
17 subsection shall be based on the entire compensation as an elected
18 official subject to the definition and maximum compensation levels
19 as set forth in paragraph (9) of Section 902 of this title.

20 7. Elected officials who are first elected or appointed on or
21 after November 1, 2011, shall also be eligible to make the election
22 of an alternate multiplier and contribution rate pursuant to
23 paragraph 2 of subsection A of Section 915 of this title.

1 8. A statewide elected official or legislator whose first
2 service as an elected official occurs on or after November 1, 2015,
3 shall become a participant in the defined contribution system
4 created by Sections ~~4~~ 935.1 through ~~11~~ 935.11 of this ~~act~~ title and
5 such elected official shall not accrue any service credit in the
6 defined benefit plan of the Oklahoma Public Employees Retirement
7 System created pursuant to Section 901 et seq. of this title.

8 9. Any benefit otherwise payable pursuant to the provisions of
9 this section to a legislator who is determined to have engaged in
10 dishonorable conduct pursuant to the provisions of Section 1 of this
11 act shall be forfeited. The provisions of this paragraph shall not
12 be applicable to a legislator who has retired from the System.

13 B. The normal retirement date for an elected official shall be
14 the first day of the month coinciding with or following the
15 official's sixtieth birthday or the first day of the month
16 coinciding with or following the date at which the sum of the
17 elected official's age and number of years of credited service total
18 eighty (80). The normal retirement date for an elected official
19 first elected or appointed to an elected office on or after November
20 1, 2011, shall be the first day of the month coinciding with or
21 following the official's sixty-fifth birthday or the date upon which
22 the elected or appointed official attains the age of sixty-two (62)
23 and who has at least ten (10) years of elected or appointed service.
24 Any elected official first elected or appointed to an elected office

1 before November 1, 2011, who has a minimum of ten (10) years'
 2 participating service may retire under the early retirement
 3 provisions of this act, including those electing a vested benefit
 4 and shall receive an adjustment of annual benefits in accordance
 5 with the following percentage schedule:

	Age	Percentage of Normal Retirement Benefits
8	60	100%
9	59	94%
10	58	88%
11	57	82%
12	56	76%
13	55	70%

14 Any elected official first elected or appointed to an elected
 15 office on or after November 1, 2011, who has a minimum of ten (10)
 16 years' participating service may retire under the early retirement
 17 provisions of this act, including those electing a vested benefit
 18 and shall receive an adjustment of annual benefits in accordance
 19 with the following percentage schedule:

	Age	Percentage of Normal Retirement Benefits
22	62	100%
23	61	93.33%
24	60	86.67%

1 C. 1. Any elected official shall receive annual benefits
2 computed based upon the computation factor selected multiplied by
3 the member's highest annual compensation received as an elected
4 official prior to retirement or termination of employment multiplied
5 by the number of years of credited service. No elected official
6 shall retire using such highest annual compensation unless the
7 elected official has made the required election and has paid the
8 required contributions on such salary.

9 2. The retirement benefit may be computed pursuant to the
10 provisions of paragraph (1) of subsection A of Section 915 of this
11 title if the benefit would be higher. Elected officials who have a
12 vested benefit prior to July 1, 1980, may elect to receive annual
13 benefits based on the alternate formula provided above. Such annual
14 benefits shall be paid in equal monthly installments.

15 3. Elected officials who become members of the Oklahoma Public
16 Employees Retirement System on or after August 22, 2008, will
17 receive retirement benefits in accordance with the computation
18 factor selected pursuant to subsection A of this section multiplied
19 by the member's highest annual compensation received as an elected
20 official and only for those years of credited service the member
21 served as an elected official. If such elected official has
22 participating service as a nonelected member, then such nonelected
23 service shall be computed separately pursuant to the provisions of
24 paragraph (1) of subsection A of Section 915 of this title with the

1 final benefit result added to the final benefit result for elected
2 service. In no event shall the elected official be entitled to
3 apply the computation factor selected pursuant to subsection A of
4 this section or the compensation received as an elected official to
5 the computation of nonelected service.

6 4. Elected officials who are first elected or appointed to an
7 elected office on or after August 22, 2008, may not receive a
8 maximum benefit greater than their single highest annual
9 compensation received as a member of the Oklahoma Public Employees
10 Retirement System.

11 D. Any elected official making an election to participate at a
12 computation factor less than the maximum and later selecting a
13 higher computation factor shall contribute to the System a sum equal
14 to the amount which the elected official would have contributed if
15 the elected official had made such election at the time the elected
16 official first became eligible, plus interest as determined by the
17 Board, in order to receive the additional benefits for all service
18 as an elected official; otherwise, the additional benefits shall be
19 applicable only to service for which the elected official pays the
20 appropriate percent of contributions to the System.

21 E. The surviving spouse of a deceased elected official who was
22 first elected or appointed to an elected office before November 1,
23 2011, and who has at least six (6) years of participating service
24 and the surviving spouse of a deceased elected official who was

1 first elected or appointed to an elected office on or after November
2 1, 2011, and who has at least eight (8) years of participating
3 service shall be entitled to receive survivor benefits in the amount
4 herein prescribed, if married to the decedent continuously for a
5 period of at least three (3) years immediately preceding the elected
6 official's death. Provided the elected official had met the service
7 requirements, survivor benefits shall be payable when the deceased
8 member would have met the requirements for normal or early
9 retirement. The amount of the benefits the surviving spouse may
10 receive shall be fifty percent (50%) of the amount of benefits the
11 deceased elected official was receiving or will be eligible to
12 receive. Elected officials may elect a retirement option as
13 provided in Section 918 of this title in lieu of the survivors
14 benefit provided above.

15 F. Any elected official who served in the Armed Forces of the
16 United States, as defined in paragraph (23) of Section 902 of this
17 title, prior to membership in the Oklahoma Public Employees
18 Retirement System shall be granted credited service of not to exceed
19 five (5) years for those periods of active military service during
20 which the elected official was a war veteran.

21 G. Anyone appointed or elected to an elected position after
22 July 1, 1990, shall not be eligible to receive benefits as provided
23 in this section until such person has participated as an elected
24 official for six (6) years. Anyone appointed or elected to an

1 | elected position on or after November 1, 2011, shall not be eligible
2 | to receive benefits as provided in this section until such person
3 | has participated as an elected official for eight (8) years.

4 | H. Elected officials who terminate participation in the System
5 | and who have a minimum of six (6) years of participating service
6 | shall be entitled to elect a vested benefit and shall be entitled to
7 | the retirement options as provided in Section 918 of this title in
8 | lieu of the survivors benefit provided in subsection E of this
9 | section. Elected officials, first elected or appointed to an
10 | elected office on or after November 1, 2011, who terminate
11 | participation in the System and who have a minimum of eight (8)
12 | years of participating service shall be entitled to elect a vested
13 | benefit and shall be entitled to retirement options as provided in
14 | Section 918 of this title in lieu of the survivors benefits provided
15 | in subsection E of this section.

16 | I. In determining the number of years of credited service, a
17 | fractional year of six (6) months or more shall be considered as one
18 | (1) year, and less than six (6) months or more shall be disregarded.
19 | For members who joined the System on or after November 1, 2011, the
20 | number of years of credited service shall be based on actual years
21 | and months of credited service without rounding up or down.

22 | SECTION 3. NEW LAW A new section of law to be codified
23 | in the Oklahoma Statutes as Section 935.12 of Title 74, unless there
24 | is created a duplication in numbering, reads as follows:

1 A legislator who has been determined to have engaged in
2 dishonorable conduct pursuant to the provisions of Section 1 of this
3 act shall forfeit all employee contributions, employer matching
4 contributions and investment gains in any account or accounts
5 created pursuant to the provisions of the Retirement Freedom Act for
6 any period of time during which the participant in the plan was in
7 service as a legislator.

8 SECTION 4. This act shall become effective November 1, 2018.

9

10 56-1EX-50086 MAH 09/22/17

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

September 22, 2017

Representative Zack Taylor
Room 335

Re: RBH No. 50086

RBH No. 50086 provides for a legislator determined to have engaged in dishonorable conduct shall forfeit any retirement benefits accrued as a result of service as a legislator.

.

RBH No. 500086 is a non fiscal bill as defined by the Oklahoma Pension Legislation Analysis Act because the bill does not contain a benefit increase nor create liability.

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