

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 2142

By: McDugle

AS INTRODUCED

An Act relating to the Oklahoma Law Enforcement Retirement System; amending 47 O.S. 2021, Section 2-300, which relates to definitions; modifying membership definition; providing for certain election by common school district with respect to police officers performing service at schools offering instruction for specified grade levels; providing procedures for police officers to become members of the Oklahoma Law Enforcement Retirement System; providing for transfer of service credit; providing for purchase at actuarial cost; providing for treatment of service not purchased; providing for election with respect to certain police officers based upon prior membership in the Teachers' Retirement System of Oklahoma; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 2021, Section 2-300, is amended to read as follows:

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

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

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 Oklahoma  
22                        Alcoholic Beverage Laws Enforcement Commission  
23                        designated to perform duties in the investigation  
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1 and prevention of crime and the enforcement of  
2 the 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~~

1 (7) inspectors of the Board of Pharmacy; and  
2 (8) law enforcement officers employed by a common  
3 school district performing services at a school  
4 offering instruction in the ninth grade or higher  
5 that makes an election to participate in the  
6 System pursuant to the provisions of Section 2 of  
7 this act.

8 b. ~~Effective~~ effective July 1, 1987, a member does not  
9 include a "leased employee" as defined under Section  
10 414(n) (2) of the Internal Revenue Code of 1986, as  
11 amended. Effective July 1, 1999, any individual who  
12 agrees with the participating employer that the  
13 individual's services are to be performed as a leased  
14 employee or an independent contractor shall not be a  
15 member regardless of any classification as a common-  
16 law employee by the Internal Revenue Service or any  
17 other governmental agency, or any court of competent  
18 jurisdiction.

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

- 3 (1) all such persons shall be of good moral  
4 character, free from deformities, mental or  
5 physical conditions, or disease and alcohol or  
6 drug addiction which would prohibit the person  
7 from performing the duties of a law enforcement  
8 officer,
- 9 (2) the physical-medical examination shall pertain to  
10 age, sight, hearing, agility and other conditions  
11 the requirements of which shall be established by  
12 the Board,
- 13 (3) the person shall be required to meet the  
14 conditions of this subsection prior to the  
15 beginning of actual employment but after an offer  
16 of employment has been tendered by a  
17 participating employer,
- 18 (4) the Board shall have authority to deny or revoke  
19 membership of any person submitting false  
20 information in such person's membership  
21 application, and
- 22 (5) the Board shall have final authority in  
23 determining eligibility for membership in the  
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1           System, pursuant to the provisions of this  
2           subsection;

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

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

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

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

11           (1) the member has been transferred to this System  
12           from the Oklahoma Public Employees Retirement  
13           System on or after July 1, 1981, and

14           (2) the member would have been vested had the member  
15           continued to be a member of the Oklahoma Public  
16           Employees Retirement System.

17          With respect to distributions under the System made for calendar  
18 years beginning on or after January 1, 2005, the System shall apply  
19 the minimum distribution incidental benefit requirements, incidental  
20 benefit requirements, and minimum distribution requirements of  
21 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,  
22 in accordance with the final regulations under Section 401(a)(9) of  
23 the Internal Revenue Code of 1986, as amended, including Treasury  
24 Regulations Sections 1.401(a)(9)-1 through 1.401(a)(9)-9; provided

1 that for individuals who attain seventy and one-half (70 1/2) years  
2 of age after December 31, 2019, distributions shall be made when the  
3 individual attains seventy-two (72) years of age, pursuant to the  
4 provisions of the SECURE Act of 2019, Pub. L. 116-94, Sections  
5 401(a)(9)(B)(iv)(I), 401(a)(9)(C)(i)(I) and 401(a)(9)(C)(ii)(I) of  
6 the Internal Revenue Code of 1986, as amended, notwithstanding any  
7 provision of the System to the contrary. With respect to  
8 distributions under the System made for calendar years beginning on  
9 or after January 1, 2001, through December 31, 2004, the System  
10 shall apply the minimum distribution requirements and incidental  
11 benefit requirements of Section 401(a)(9) of the Internal Revenue  
12 Code of 1986, as amended, in accordance with the regulations under  
13 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,  
14 which were proposed in January 2001, notwithstanding any provision  
15 of the System to the contrary.

16       Effective July 1, 1989, notwithstanding any other provision  
17 contained herein to the contrary, in no event shall commencement of  
18 distribution of the accrued retirement benefit of a member be  
19 delayed beyond April 1 of the calendar year following the later of:  
20 (1) the calendar year in which the member reaches seventy and one-  
21 half (70 1/2) years of age for a member who attains this age before  
22 January 1, 2020, or, for a member who attains this age after January  
23 1, 2020, the calendar year in which the member reaches seventy-two  
24 (72) years of age; or (2) the actual retirement date of the member.

1 A member electing to defer the commencement of retirement benefits  
2 pursuant to Section 2-308.1 of this title may not defer the benefit  
3 commencement beyond the age of sixty-five (65).

4       Effective September 8, 2009, notwithstanding anything to the  
5 contrary of the System, the System, which as a governmental plan  
6 (within the meaning of Section 414(d) of the Internal Revenue Code  
7 of 1986, as amended), is treated as having complied with Section  
8 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all  
9 years to which Section 401(a)(9) of the Internal Revenue Code of  
10 1986, as amended, applies to the System if the System complies with  
11 a reasonable and good faith interpretation of Section 401(a)(9) of  
12 the Internal Revenue Code of 1986, as amended.

13       A member who was required to join the System effective July 1,  
14 1980, because of the transfer of the employing agency from the  
15 Oklahoma Public Employees Retirement System to the System, and was  
16 not a member of the Oklahoma Public Employees Retirement System on  
17 the date of such transfer shall be allowed to receive credit for  
18 prior law enforcement service rendered to this state, if the member  
19 is not receiving or eligible to receive retirement credit or  
20 benefits for such service in any other public retirement system,  
21 upon payment to the System of the employee contribution the member  
22 would have been subject to had the member been a member of the  
23 System at the time, plus five percent (5%) interest. Service credit  
24 received pursuant to this paragraph shall be used in determining the



1 member's retirement benefit, and shall be used in determining years  
2 of service for retirement or vesting purposes;

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

7 9. "Final average salary" means the average of the highest  
8 thirty (30) consecutive complete months of actual paid gross salary.  
9 Gross salary shall include any amount of elective salary reduction  
10 under Section 457 of the Internal Revenue Code of 1986, as amended,  
11 and any amount of nonelective salary reduction under Section 414(h)  
12 of the Internal Revenue Code of 1986, as amended. Effective July 1,  
13 1992, gross salary shall include any amount of elective salary  
14 reduction under Section 125 of the Internal Revenue Code of 1986, as  
15 amended. Effective July 1, 1998, gross salary shall include any  
16 amount of elective salary reduction not includable in the gross  
17 income of the member under Section 132(f)(4) of the Internal Revenue  
18 Code of 1986, as amended. Effective July 1, 1998, for purposes of  
19 determining a member's compensation, any contribution by the member  
20 to reduce his or her regular cash remuneration under Section  
21 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be  
22 treated as if the member did not make such an election. Only salary  
23 on which required contributions have been made may be used in  
24

1 computing the final average salary. Gross salary shall not include  
2 severance pay.

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

22 For plan years beginning on or after July 1, 2002, any reference  
23 in the System to the annual salary limit under Section 401(a)(17) of  
24

1 the Internal Revenue Code of 1986, as amended, shall mean the EGTRRA  
2 salary limit set forth in this provision.

3 Effective January 1, 2008, gross salary for a plan year shall  
4 also include gross salary, as described above, for services, but  
5 paid by the later of two and one-half (2 1/2) months after a  
6 member's severance from employment or the end of the calendar year  
7 that includes the date the member terminated employment, if it is a  
8 payment that, absent a severance from employment, would have been  
9 paid to the member while the member continued in employment with the  
10 employer.

11 Effective January 1, 2008, any payments not described above  
12 shall not be considered gross salary if paid after severance from  
13 employment, even if they are paid by the later of two and one-half  
14 (2 1/2) months after the date of severance from employment or the  
15 end of the calendar year that includes the date of severance from  
16 employment, except payments to an individual who does not currently  
17 perform services for the employer by reason of qualified military  
18 service within the meaning of Section 414(u)(5) of the Internal  
19 Revenue Code of 1986, as amended, to the extent these payments do  
20 not exceed the amounts the individual would have received if the  
21 individual had continued to perform services for the employer rather  
22 than entering qualified military service.

23 Effective January 1, 2008, back pay, within the meaning of  
24 Section 1.415(c)-2(g)(8) of the Income Tax Regulations, shall be

1 treated as gross salary for the limitation year to which the back  
2 pay relates to the extent the back pay represents wages and  
3 compensation that would otherwise be included in this definition.

4 Effective for years beginning after December 31, 2008, gross  
5 salary shall also include differential wage payments under Section  
6 414(u) (12) of the Internal Revenue Code of 1986, as amended;

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

1 Public Employees Retirement System as of June 30, 1982, and for park  
2 rangers of the Oklahoma Tourism and Recreation Department who became  
3 members of the System on July 1, 1985, any service credited under  
4 the Oklahoma Public Employees Retirement System as of June 30, 1985,  
5 and for inspectors of the Oklahoma State Board of Pharmacy who  
6 became members of the System on July 1, 1986, any service credited  
7 under the Oklahoma Public Employees Retirement System as of June 30,  
8 1986, for law enforcement officers of the Oklahoma Capitol Patrol  
9 Division of the Department of Public Safety who became members of  
10 the System effective July 1, 1993, any service credited under the  
11 Oklahoma Public Employees Retirement System as of June 30, 1993, and  
12 for all commissioned officers in the Gunsmith/Ammunition Reloader  
13 Division of the Department of Public Safety who became members of  
14 the System effective July 1, 1994, any service credited under the  
15 Oklahoma Public Employees Retirement System as of June 30, 1994, and  
16 for the park managers or park supervisors of the Oklahoma Tourism  
17 and Recreation Department who were employed in such a position prior  
18 to July 1, 1985, and who elect to become members of the System  
19 effective September 1, 1996, any service transferred pursuant to  
20 subsection C of Section 2-309.6 of this title and any service  
21 purchased pursuant to subsection B of Section 2-307.2 of this title.  
22 Effective August 5, 1993, an authorized leave of absence shall  
23 include a period of absence pursuant to the Family and Medical Leave  
24 Act of 1993;

1 11. "Disability" means a physical or mental condition which, in  
2 the judgment of the Board, totally and presumably permanently  
3 prevents the member from engaging in the usual and customary duties  
4 of the occupation of the member and thereafter prevents the member  
5 from performing the duties of any occupation or service for which  
6 the member is qualified by reason of training, education or  
7 experience. A person is not under a disability when capable of  
8 performing a service to the employer, regardless of occupation,  
9 providing the salary of the employee is not diminished thereby;

10 12. "Limitation year" means the year used in applying the  
11 limitations of Section 415 of the Internal Revenue Code of 1986,  
12 which year shall be the calendar year;

13 13. "Line of duty" means any action which a member whose  
14 primary function is crime control or reduction or enforcement of the  
15 criminal law is obligated or authorized by rule, regulations,  
16 condition of employment or service, or law to perform including  
17 those social, ceremonial or athletic functions to which the member  
18 is assigned, or for which the member is compensated, by the agency  
19 the member serves;

20 14. "Personal injury" or "injury" means any traumatic injury as  
21 well as diseases which are caused by or result from such an injury,  
22 but not occupational diseases;

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

1       16. "Traumatic injury" means a wound or a condition of the body  
2 caused by external force including injuries inflicted by bullets,  
3 explosives, sharp instruments, blunt objects or other physical  
4 blows, chemicals, electricity, climatic conditions, infectious  
5 diseases, radiation and bacteria, but excluding stress and strain;  
6 and

7       17. "Beneficiary" means the individual designated by the member  
8 on a beneficiary designation form supplied by the Oklahoma Law  
9 Enforcement Retirement System, or, if there is no designated  
10 beneficiary or if the designated beneficiary predeceases the member,  
11 the estate of the member. If the member's spouse is not designated  
12 as the sole primary beneficiary, the member's spouse must sign a  
13 consent.

14       SECTION 2.       NEW LAW       A new section of law to be codified  
15 in the Oklahoma Statutes as Section 2-309.6a of Title 47, unless  
16 there is created a duplication in numbering, reads as follows:

17       A. The governing board of any common school district may make  
18 an irrevocable written election for the district to become a  
19 participating employer in the Oklahoma Law Enforcement Retirement  
20 System for police officers who are CLEET certified and employed by  
21 the school district at any school offering instruction in the ninth  
22 grade or higher. The school district shall send written notice of  
23 the election to the Oklahoma Law Enforcement Retirement System.

24

1 B. Beginning the following month after the System receives the  
2 written notice, the school district and all active police officers  
3 who are CLEET certified and hired on or after the date of the  
4 election and who perform services as described in subsection A of  
5 this section shall participate in and make contributions to the  
6 System as other participating employers and members of the System.

7 C. Upon election by the school district board, pursuant to  
8 subsection A of this section, active CLEET certified police officers  
9 employed prior to the date of the election and who were  
10 participating in the Teachers' Retirement System of Oklahoma, may,  
11 within three (3) months of the date of the election, make an  
12 irrevocable written election to participate in the Oklahoma Law  
13 Enforcement Retirement System and file the written election with the  
14 Teachers' Retirement System of Oklahoma and the Oklahoma Law  
15 Enforcement Retirement System. Such police officers who make the  
16 election to transfer shall be transferred to the Oklahoma Law  
17 Enforcement Retirement System subject to the following:

18 1. Upon the date of election of the police officer, the police  
19 officer shall cease accruing benefits in the Teachers' Retirement  
20 System of Oklahoma and shall commence accruing benefits in the  
21 Oklahoma Law Enforcement Retirement System;

22 2. Prior to the beginning of the month following receipt of the  
23 police officers' election by Teachers' Retirement System of  
24 Oklahoma, the Teachers' Retirement System of Oklahoma shall transfer



1 to the Oklahoma Law Enforcement Retirement System all employee  
2 contributions and employer contributions plus accrued interest. The  
3 Teachers' Retirement System of Oklahoma shall also send to the  
4 Oklahoma Law Enforcement Retirement System the retirement records of  
5 the transferring police officer;

6 3. To receive service credit accrued by such police officer  
7 prior to the election, or prior to the date as of which the person  
8 making the election ceases to be a member of the Teachers'  
9 Retirement System of Oklahoma, whichever date occurs last, the  
10 member shall pay the difference between the amount transferred by  
11 the Teachers' Retirement System of Oklahoma to the Oklahoma Law  
12 Enforcement Retirement System in paragraph 2 of this subsection and  
13 the amount determined by the Board of Trustees pursuant to Section  
14 2-307.5 of Title 47 of the Oklahoma Statutes. The police officer  
15 shall elect to either pay any difference to receive full credit for  
16 the years sought to be transferred or receive prorated service  
17 credit for only the amount received from the Teachers' Retirement  
18 System of Oklahoma pursuant to this subsection. Payments made by  
19 electing police officers pursuant to this paragraph shall be made  
20 pursuant to subsection B of Section 2-307.5 of Title 47 of the  
21 Oklahoma Statutes;

22 4. Service credit accrued by a police officer while a member of  
23 the Teachers' Retirement System of Oklahoma shall be treated as  
24 credited service for such transferring police officer in the

1 Teachers' Retirement System of Oklahoma if the police officer is not  
2 receiving or eligible to receive service credit or benefits from  
3 said service in any other public retirement system and the member  
4 has not received service credit for the same years of service  
5 pursuant to Sections 2-307.1, 2-307.3 and 2-307.4 of Title 47 of the  
6 Oklahoma Statutes. Provided further, that only transferred credited  
7 service related to police service with the school district shall be  
8 included in the determination of a police officer's normal  
9 retirement date or vesting date; and

10 5. All service credit with the Teachers' Retirement System of  
11 Oklahoma which is ineligible for transfer to the Oklahoma Law  
12 Enforcement Retirement System shall be canceled.

13 D. Upon election by the school district board, pursuant to  
14 subsection A of this section, active CLEET certified police officers  
15 employed prior to the date of the election and who were not  
16 participating in the Teachers' Retirement System of Oklahoma, may,  
17 within three (3) months of the date of the election, make an  
18 irrevocable written election to participate in the Oklahoma Law  
19 Enforcement Retirement System and file the written election with the  
20 Oklahoma Law Enforcement Retirement System. Beginning the following  
21 month after the System for such police officers receives the police  
22 officer's written election, the school district and the electing  
23 police officer shall participate and make contributions to the  
24 System as other participating employers and members of the System.

1 SECTION 3. This act shall become effective July 1, 2023.

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

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7 59-1-6162 MAH 01/12/23

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**THOMAS E. CUMMINS CONSULTING ACTUARY, INC.**

2512 E. 71<sup>st</sup> Street , Suite D • Tulsa, Oklahoma 74136  
(918) 492-9658 • (918) 492- 9659

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January 16, 2023

Representative Kevin McDugle  
Room 242

Re: RHB No. 6162

RBH No. 6162 would allow the law enforcement officers who are employed by a common school district at an institution in grade 9 or greater to become participants in Oklahoma Law Enforcement Retirement System. The school district must elect to become a Participating Employer for the officers may become participants.

RBH No. 6162 is a fiscal bill as defined by OPLAAA since it adds additional eligible participants to OLERS.

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