

**HOUSE OF REPRESENTATIVES - FLOOR VERSION**

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 2247

By: McDaniel (Randy) of the House

and

Smalley of the Senate

AS INTRODUCED

An Act relating to the Teachers' Retirement System of Oklahoma; enacting the Experienced Teacher Support Act; amending 70 O.S. 2011, Sections 17-108.1 and 17-116.10, as amended by Section 4, Chapter 101, O.S.L. 2013 (70 O.S. Supp. 2015, Section 17-116.10), which relate to employer contribution requirements and postretirement earnings limitations; modifying employer contribution requirement for certain employers with respect to compensation earned by certain retired members; modifying postretirement earnings limitations provisions with respect to certain retired members of the System; providing for noncodification; 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 not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Experienced Teacher Support Act".

SECTION 2. AMENDATORY 70 O.S. 2011, Section 17-108.1, is amended to read as follows:

1 Section 17-108.1 A. 1. Except as provided in paragraph 2 or  
2 paragraph 4 of this subsection, the employer of any member of the  
3 Teachers' Retirement System of Oklahoma shall make the following  
4 contributions to the System:

5 a. beginning July 1, 1998, through June 30, 1999, eleven  
6 and one-half percent (11 1/2%) of the regular annual  
7 compensation of the member not in excess of any  
8 applicable maximum compensation level of the member,

9 b. beginning July 1, 1999, through June 30, 2000, four  
10 and eight-tenths percent (4.8%) of the regular annual  
11 compensation of the member not in excess of any  
12 applicable maximum compensation level of the member,

13 c. beginning July 1, 2000, through June 30, 2001, five  
14 and eight-tenths percent (5.8%) of the regular annual  
15 compensation of the member not in excess of any  
16 applicable maximum compensation level of the member,

17 d. beginning July 1, 2001, through June 30, 2002, six and  
18 eight-tenths percent (6.8%) of the regular annual  
19 compensation of the member not in excess of any  
20 applicable maximum compensation level of the member,

21 e. beginning July 1, 2002, through December 31, 2006,  
22 seven and five-hundredths percent (7.05%) of the  
23 regular annual compensation of the member not in  
24

- 1 excess of any applicable maximum compensation level of  
2 the member,
- 3 f. beginning January 1, 2007, through June 30, 2007,  
4 seven and six-tenths percent (7.6%) of the regular  
5 annual compensation of the member not in excess of any  
6 applicable maximum compensation level of the member,
- 7 g. beginning July 1, 2007, through December 31, 2007,  
8 seven and eighty-five hundredths percent (7.85%) of  
9 the regular annual compensation of the member not in  
10 excess of any applicable maximum compensation level of  
11 the member,
- 12 h. beginning January 1, 2008, through June 30, 2008,  
13 eight and thirty-five hundredths percent (8.35%) of  
14 the regular annual compensation of the member not in  
15 excess of any applicable maximum compensation level of  
16 the member,
- 17 i. beginning July 1, 2008, through December 31, 2008,  
18 eight and five-tenths percent (8.5%) of the regular  
19 annual compensation of the member not in excess of any  
20 applicable maximum compensation level of the member,
- 21 j. beginning January 1, 2009, through December 31, 2009,  
22 nine percent (9%) of the regular annual compensation  
23 of the member not in excess of any applicable maximum  
24 compensation level of the member,

- 1 k. beginning January 1, 2010, through June 30, 2010, nine  
2 and five-tenths percent (9.5%) of the regular annual  
3 compensation of the member not in excess of any  
4 applicable maximum compensation level of the member,  
5 and
- 6 l. beginning July 1, 2010, through June 30, 2011, and for  
7 each fiscal year thereafter, nine and five-tenths  
8 percent (9.5%) of the regular annual compensation of  
9 the member not in excess of any applicable maximum  
10 compensation level of the member.

11 The employer contribution rate increase that would otherwise be  
12 effective, as provided by subparagraphs f, g, h, i, j, k and l of  
13 this paragraph, shall not become effective as law unless funding  
14 levels to each of the affected participating employers within the  
15 System are increased so that the additional employer contribution  
16 obligation is funded through an appropriation or transfer of monies  
17 instead of requiring the additional employer contribution to be paid  
18 for from existing budgetary resources of such participating  
19 employers. The participating employers shall use any monies  
20 specifically made available for purposes of making employer  
21 contributions for such purpose and to the extent of the funds made  
22 available for that purpose.

- 23 2. a. Beginning January 1, 2007, through December 31, 2007,  
24 a participating employer that employs an employee of a

1 comprehensive university or a regional institution  
2 offering a four-year degree program as designated or  
3 authorized by the Oklahoma State Regents for Higher  
4 Education shall make contributions to the System with  
5 respect to such employees at the rate of seven and  
6 five-hundredths percent (7.05%) of the regular annual  
7 compensation of the member not in excess of any  
8 applicable maximum compensation level.

9 b. Beginning January 1, 2008, through December 31, 2008,  
10 a participating employer that employs an employee of a  
11 comprehensive university or a regional institution  
12 offering a four-year degree program as designated or  
13 authorized by the Oklahoma State Regents for Higher  
14 Education shall make contributions to the System with  
15 respect to such employees at the rate of seven and  
16 fifty-five hundredths percent (7.55%) of the regular  
17 annual compensation of the member not in excess of any  
18 applicable maximum compensation level of the member.

19 c. Beginning January 1, 2009, through December 31, 2009,  
20 a participating employer that employs an employee of a  
21 comprehensive university or a regional institution  
22 offering a four-year degree program as designated or  
23 authorized by the Oklahoma State Regents for Higher  
24 Education shall make contributions to the System with

1           respect to such employees at the rate of eight and  
2           five hundredths percent (8.05%) of the regular annual  
3           compensation of the member not in excess of any  
4           applicable maximum compensation level of the member.

5           d.   Beginning January 1, 2010, through June 30, 2010, a  
6           participating employer that employs an employee of a  
7           comprehensive university or a regional institution  
8           offering a four-year degree program as designated or  
9           authorized by the Oklahoma State Regents for Higher  
10          Education shall make contributions to the System with  
11          respect to such employees at the rate of eight and  
12          fifty-five hundredths percent (8.55%) of the regular  
13          annual compensation of the member not in excess of any  
14          applicable maximum compensation level of the member.

15          e.   Beginning July 1, 2010, through June 30, 2011, and for  
16          each fiscal year thereafter, a participating employer  
17          that employs an employee of a comprehensive university  
18          or a regional institution offering a four-year degree  
19          program as designated or authorized by the Oklahoma  
20          State Regents for Higher Education shall make  
21          contributions to the System with respect to such  
22          employees at the rate of eight and fifty-five  
23          hundredths percent (8.55%) of the regular annual  
24

1 compensation of the member not in excess of any  
2 applicable maximum compensation level of the member.

3 The employer contribution rate increase that would otherwise be  
4 effective as provided by subparagraphs b, c, d and e of this  
5 paragraph shall not become effective as law unless funding levels  
6 are increased so that the additional employer contribution  
7 obligation is funded through such an appropriation or transfer of  
8 monies instead of requiring the additional employer contribution to  
9 be paid for from existing budgetary resources of such participating  
10 employers. The participating employers shall use any monies  
11 specifically made available for purposes of making employer  
12 contributions for such purpose and to the extent of the funds made  
13 available for that purpose.

14 3. Any employer contribution paid to the System pursuant to  
15 this subsection shall not be considered as salary, fringe benefit,  
16 or total compensation due to members for the purpose of meeting any  
17 legislative or contractual obligation of the employer.

18 4. A public school that hires a retired member of the Teachers'  
19 Retirement System of Oklahoma on or after the effective date of this  
20 act shall make a contribution equal to eleven percent (11%) of the  
21 regular annual compensation of the member.

22 B. For entities or institutions within The Oklahoma State  
23 System of Higher Education, the contributions to the System shall be  
24 made on regular annual compensation of a member who is an employee

1 of such entity or institution not to exceed the maximum compensation  
2 level in effect for the member as prescribed by law.

3 C. Employers paying contributions to the System pursuant to  
4 subsection A or B of this section shall receive credit for that  
5 portion of the gross production tax on natural gas and/or casinghead  
6 gas apportioned to the System pursuant to subsection 2 of Section  
7 1004 of Title 68 of the Oklahoma Statutes in meeting the total  
8 required employer contribution. On an annual basis, the Board of  
9 Trustees of the Teachers' Retirement System of Oklahoma shall  
10 estimate the net additional cost required to be paid by the  
11 contributing employers in order to meet the total employer  
12 contribution as provided in subsection A or B of this section. The  
13 Board of Trustees shall approve the amount of the additional  
14 contribution required to be paid by contributing employers as a  
15 percentage of total member salaries and fringe benefits for each  
16 fiscal year ending June 30, no later than April 1 of the previous  
17 fiscal year. In no event shall the additional contribution required  
18 to be paid by the contributing employer under this subsection be  
19 less than the contribution required under this subsection in the  
20 prior year. In the event actual contributions do not equal the  
21 required total contribution as provided in subsection A or B of this  
22 section, the net difference between the actual contributions and the  
23 required total contributions shall be determined and shall be  
24 included in the amount of the additional contribution required to be



1 paid by contributing employers for the next fiscal year. All  
2 contributing employers shall pay the same percentage of total member  
3 salaries and fringe benefits during each fiscal year. The  
4 provisions of this subsection shall terminate June 30, 1999.

5 D. Any school district, state college or university, State  
6 Board of Education, State Board of Career and Technology Education,  
7 or other state agency may, for and on behalf of any member of the  
8 System, pay all or any portion of the contribution required by  
9 Section 17-108 of this title. Provided, the contribution so paid by  
10 any school district, state college or university, State Board of  
11 Education, State Board of Career and Technology Education, or other  
12 state agency shall be and remain subject to the withdrawal  
13 provisions set forth under the System. Wherever the term  
14 "contribution" is used, it shall be deemed to include contributions  
15 paid for and on behalf of a member by a school district, state  
16 college or university, State Board of Education, State Board of  
17 Career and Technology Education, or other state agency.

18 E. All participating employers shall provide a complete record  
19 of the total compensation paid to each employee, including any  
20 person who is a retired member of the System, whether or not  
21 employer and employee contributions are made with respect to such  
22 compensation. The employer shall provide the report required by  
23 this subsection on a monthly basis on a form or using such method as  
24 the Teachers' Retirement System of Oklahoma may require.

1 SECTION 3. AMENDATORY 70 O.S. 2011, Section 17-116.10,  
2 as amended by Section 4, Chapter 101, O.S.L. 2013 (70 O.S. Supp.  
3 2015, Section 17-116.10), is amended to read as follows:

4 Section 17-116.10 A. Subject to the requirements of Section 6-  
5 101.2 of this title and any other applicable requirements of law, a  
6 member may enter into ~~post-retirement~~ postretirement employment with  
7 a public school of Oklahoma and still receive monthly retirement  
8 benefits subject to the following limitations:

9 1. A retired member is not eligible to be employed by the  
10 public schools of Oklahoma, in any capacity, for sixty (60) calendar  
11 days between the retiree's last day of ~~pre-retirement~~ preretirement  
12 public-education employment and any ~~post-retirement~~ postretirement  
13 public-education employment. For purposes of this section, the term  
14 "last day of ~~pre-retirement~~ preretirement employment" shall mean the  
15 last day the employee is required to be physically present on the  
16 job to complete the terms of the employment contract or agreement.  
17 Employment under any conditions during this time, volunteer services  
18 for the purpose of obtaining a paid position at a later date, or  
19 payment at a later time for services performed during this time  
20 period shall cause the forfeiture of all retirement benefits  
21 received during the period;

22 2. Unless otherwise provided in paragraph 3 of this subsection,  
23 earnings from the public schools may not exceed one-half (1/2) of  
24 the member's final average salary used in computing retirement

1 benefits, or the Earnings Limitation for employees allowed by the  
2 Social Security Administration, whichever is less. For retired  
3 members under the age of sixty-two (62) years, the limit on allowed  
4 earnings from the public schools of Oklahoma for employment for the  
5 performance of duties ordinarily performed by classified or  
6 nonclassified personnel shall be the lesser of Fifteen Thousand  
7 Dollars (\$15,000.00) or one-half (1/2) of the member's final average  
8 salary used in computing retirement benefits unless the earnings  
9 limitation allowed by the Social Security Administration would be  
10 greater than Fifteen Thousand Dollars (\$15,000.00). For retired  
11 members sixty-two (62) years of age or older the limit on allowed  
12 earnings from the public schools of Oklahoma for the performance of  
13 duties ordinarily performed by classified or nonclassified personnel  
14 shall be the lesser of Thirty Thousand Dollars (\$30,000.00) or one-  
15 half (1/2) of the member's final average salary used in computing  
16 retirement benefits. For purposes of this paragraph, the following  
17 shall apply:

18       a. earnings shall mean "regular annual compensation" as  
19       defined in paragraph (25) of Section 17-101 of this  
20       title, and shall include any payment by a public  
21       school for services rendered by a retired member who  
22       is employed for any purpose whatsoever. Supplemental  
23       retirement payments paid by a former public school  
24       employer pursuant to subsection 9 of Section 17-105 of

1 this title or other state law shall not be considered  
2 as earnings,

3 b. the Earnings Limitation for employees allowed by the  
4 Social Security Administration to workers between the  
5 age of sixty-two (62) years and sixty-five (65) years  
6 shall apply to retired members below the age of sixty-  
7 two (62) years,

8 c. the limit on allowed earnings from the public schools  
9 shall be automatically adjusted effective the first  
10 day of January of each year to reflect the current  
11 Earnings Limitation for employees as determined from  
12 time to time by the Social Security Administration,

13 d. the earnings limit for the calendar year in which a  
14 member retires shall be one-twelfth (1/12) of the  
15 annual limit multiplied by the number of months the  
16 member is eligible to work and receive payments from  
17 the public schools of Oklahoma,

18 e. earnings in excess of the maximum limit on allowed  
19 earnings from public schools of Oklahoma shall result  
20 in a loss of future retirement benefits for the year  
21 the ~~post-retirement~~ postretirement employment was  
22 performed of One Dollar (\$1.00) for each One Dollar  
23 (\$1.00) earned over the maximum allowed earnings  
24 amount,

1 f. for those members age seventy (70) years and over, the  
2 earnings in excess of the maximum limit allowed  
3 earnings from public schools of Oklahoma shall be one-  
4 half (1/2) the member's final average salary used in  
5 computing retirement benefits. However, any retired  
6 member receiving benefits from the Retirement System  
7 who reached age seventy (70) years prior to July 1,  
8 1991, shall not be restricted by the earnings limits  
9 pursuant to this subparagraph until January 1, 1994.  
10 To qualify for the provisions of this subparagraph,  
11 the member must be employed less than one-half (1/2)  
12 time compared to other full-time employees in similar  
13 positions;

14 3. Notwithstanding paragraph 2 of this subsection, a retired  
15 classified or nonclassified member who has been retired for thirty-  
16 six (36) or more months and who is employed by a public school to  
17 perform duties ordinarily performed by classified or nonclassified  
18 personnel shall be able to receive annualized earnings from the  
19 public school with no reduction in retirement benefits regardless of  
20 the amount of annualized earnings; and

21 4. A member shall be considered to be employed by a school  
22 district to perform the duties ordinarily performed by classified or  
23 nonclassified personnel if the member is hired by the school  
24 district in the member's individual capacity to perform the duties

1 or if the member performs the duties through employment with a  
2 proprietorship, partnership, corporation, limited liability company  
3 or partnership, or any other business structure that has agreed or  
4 contracted to provide the services to the school district.

5 5. Notwithstanding any other provisions of this section, a  
6 retired member of the Teachers' Retirement System of Oklahoma who is  
7 employed by a public school on or after the effective date of this  
8 act, but prior to the expiration of thirty-six (36) months from the  
9 date of the member's retirement may receive earnings from that  
10 employment not in excess of Eighteen Thousand Dollars (\$18,000.00)  
11 per year without any reduction in the member's retirement benefit.  
12 If earnings from such employment exceed Eighteen Thousand Dollars  
13 (\$18,000.00) per year, the provisions of subparagraph e of paragraph  
14 2 of this subsection shall be applicable to reduce the retirement  
15 benefit to which the retired member would otherwise be entitled. If  
16 a retired member is employed by a public school for a period in  
17 excess of thirty-six (36) months after the member retires, there  
18 shall be no limit on allowed earnings of the member for the period  
19 of time the member is employed by a public school after the  
20 expiration of the thirty-six-month period and there shall be no  
21 reduction of the retirement benefit.

22 B. A public school district that employs a retired member shall  
23 be required to make contributions to the System for the retired  
24

1 member in an amount as required in Section 17-108.1 and in paragraph  
2 3 of subsection B of Section 17-116.2 of this title.

3 C. For purposes of this section, ~~post-retirement~~ postretirement  
4 employment of less than one thousand (1,000) hours per year with the  
5 Governor, the State Senate, the House of Representatives or the  
6 Legislative Service Bureau shall not be considered as ~~post-~~  
7 ~~retirement~~ postretirement employment with a public school of  
8 Oklahoma.

9 D. The Board of Trustees of the Teachers' Retirement System of  
10 Oklahoma shall promulgate such rules as are necessary to implement  
11 the provisions of this section.

12 E. A member who has entered into ~~post-retirement~~ postretirement  
13 employment with a participating employer of the Teachers' Retirement  
14 System of Oklahoma must fully comply with all the provisions of the  
15 rules promulgated by the Board of Trustees pursuant to this section  
16 in order to continue receiving his or her monthly retirement  
17 benefit.

18 SECTION 4. This act shall become effective November 1, 2016.

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20 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, LABOR AND RETIREMENT  
21 LAWS, dated 02/02/2016 - DO PASS, As Coauthored.

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November 2, 2015

Representative Randy McDaniel  
Room 438

Re: RBH No. 7648

RBH No. 7648 would allow retired members of OTRS who have been retired at least 60 days to be rehired by public school and earn up to \$18,000 before a reduction in their OTRS pension benefit. There would be no limit on earnings if the retired member has been retired at least 36 months.

The public school who rehires a retired member will make a contribution to OTRS equal to 11% of the regular annual compensation of the rehired member.

RBH No. 7648 is a nonfiscal retirement bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act.

*Thomas E. Cummins*

Thomas E. Cummins, MAAA