

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 2319

By: Hilbert

AS INTRODUCED

An Act relating to the Teachers' Retirement System; amending 70 O.S. 2021, Section 17-116.10, which relates to postretirement employment; modifying provisions relating to retirement benefits; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 2021, Section 17-116.10, is amended to read as follows:

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

1. A retired member is not eligible to be employed by the public schools of Oklahoma, in any capacity, for sixty (60) calendar days between the retiree's last day of preretirement public

1 education employment and any postretirement public education  
2 employment. For purposes of this section, the term "last day of  
3 preretirement employment" shall mean the last day the employee is  
4 required to be physically present on the job to complete the terms  
5 of the employment contract or agreement. An employee on paid leave  
6 is still considered to be employed for purposes of this section.  
7 Employment under any conditions during this time, volunteer services  
8 for the purpose of obtaining a paid position at a later date, or  
9 payment at a later time for services performed during this time  
10 period shall cause the forfeiture of all retirement benefits  
11 received during the period;

12 2. Unless otherwise provided in paragraph 3 of this subsection,  
13 earnings from the public schools may not exceed one-half (1/2) of  
14 the member's final average salary used in computing retirement  
15 benefits, or the Earnings Limitation for employees allowed by the  
16 Social Security Administration, whichever is less. ~~For retired~~  
17 ~~members under the age of sixty-two (62) years, the limit on allowed~~  
18 ~~earnings from the public schools of Oklahoma for employment for the~~  
19 ~~performance of duties ordinarily performed by classified or~~  
20 ~~nonclassified personnel shall be the lesser of Fifteen Thousand~~  
21 ~~Dollars (\$15,000.00) or one-half (1/2) of the member's final average~~  
22 ~~salary used in computing retirement benefits unless the earnings~~  
23 ~~limitation allowed by the Social Security Administration would be~~  
24 ~~greater than Fifteen Thousand Dollars (\$15,000.00). For retired~~

1 members sixty-two (62) years of age or older the limit on allowed  
2 earnings from the public schools of Oklahoma for the performance of  
3 duties ordinarily performed by classified or nonclassified personnel  
4 shall be the lesser of Thirty Thousand Dollars (\$30,000.00) or one-  
5 half (1/2) of the member's final average salary used in computing  
6 retirement benefits. For purposes of this paragraph, the following  
7 shall apply:

- 8       a. earnings shall mean "regular annual compensation" as  
9       defined in paragraph (25) of Section 17-101 of this  
10       title, and shall include any payment by a public  
11       school for services rendered by a retired member who  
12       is employed for any purpose whatsoever. Supplemental  
13       retirement payments paid by a former public school  
14       employer pursuant to subsection 9 of Section 17-105 of  
15       this title or other state law shall not be considered  
16       as earnings,
- 17       b. the Earnings Limitation for employees allowed by the  
18       Social Security Administration to workers between the  
19       age of sixty-two (62) years and sixty-five (65) years  
20       shall apply to retired members below the age of sixty-  
21       two (62) years,
- 22       c. the limit on allowed earnings from the public schools  
23       shall be automatically adjusted effective the first  
24       day of January of each year to reflect the current

- 1 Earnings Limitation for employees as determined from  
2 time to time by the Social Security Administration,  
3 d. the earnings limit for the calendar year in which a  
4 member retires shall be one-twelfth (1/12) of the  
5 annual limit multiplied by the number of months the  
6 member is eligible to work and receive payments from  
7 the public schools of Oklahoma,  
8 e. earnings in excess of the maximum limit on allowed  
9 earnings from public schools of Oklahoma shall result  
10 in a loss of future retirement benefits for the year  
11 the postretirement employment was performed of One  
12 Dollar (\$1.00) for each One Dollar (\$1.00) earned over  
13 the maximum allowed earnings amount,  
14 f. for those members age seventy (70) years and over, the  
15 earnings in excess of the maximum limit allowed  
16 earnings from public schools of Oklahoma shall be one-  
17 half (1/2) the member's final average salary used in  
18 computing retirement benefits. However, any retired  
19 member receiving benefits from the Retirement System  
20 who reached age seventy (70) years prior to July 1,  
21 1991, shall not be restricted by the earnings limits  
22 pursuant to this subparagraph until January 1, 1994.  
23 To qualify for the provisions of this subparagraph,  
24 the member must be employed less than one-half (1/2)

1           time compared to other full-time employees in similar  
2           positions;

3           3. Notwithstanding paragraph 2 of this subsection, a retired  
4           classified or nonclassified member who has been retired for thirty-  
5           six (36) or more months and who is employed by a public school to  
6           perform duties ordinarily performed by classified or nonclassified  
7           personnel shall be able to receive annualized earnings from the  
8           public school with no reduction in retirement benefits regardless of  
9           the amount of annualized earnings. For a period of three (3) years  
10          beginning July 1, 2017, members who have retired as of July 1, 2017,  
11          as active classroom teachers, who have been retired and receiving a  
12          benefit for at least one (1) year, and who have not been employed by  
13          any public school during that one-year period, shall be eligible to  
14          be reemployed as an active classroom teacher in common or career  
15          tech school districts, with no limitations on earnings. For a  
16          period of three (3) years beginning July 1, 2021, members who have  
17          retired as of July 1, 2020, who have been retired and receiving a  
18          benefit for at least one (1) year, and who have not been employed by  
19          any public school during that one-year period, shall be eligible to  
20          be reemployed as an active classroom teacher in common or career  
21          tech school districts, with no limitations on earnings. The one-  
22          year period starts with the retiree's last day of preretirement  
23          public education employment. Members returning under this section  
24          shall not be subject to any earning limitations following the end of

1 the three-year periods described in this paragraph. Members  
2 returning under this section shall only be employed pursuant to a  
3 temporary contract; and

4 4. A member shall be considered to be employed by a school  
5 district to perform the duties ordinarily performed by classified or  
6 nonclassified personnel if the member is hired by the school  
7 district in the member's individual capacity to perform the duties  
8 or if the member performs the duties through employment with a  
9 proprietorship, partnership, corporation, limited liability company  
10 or partnership, or any other business structure that has agreed or  
11 contracted to provide the services to the school district.

12 B. A public school district that employs a retired member shall  
13 be required to make contributions to the System for the retired  
14 member in an amount as required in Section 17-108.1 and in paragraph  
15 3 of subsection B of Section 17-116.2 of this title.

16 C. For purposes of this section, postretirement employment of  
17 less than one thousand (1,000) hours per year with the Governor, the  
18 State Senate, the House of Representatives or the Legislative  
19 Service Bureau shall not be considered as postretirement employment  
20 with a public school of Oklahoma.

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

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1 E. A member who has entered into postretirement employment with  
2 a participating employer of the Teachers' Retirement System of  
3 Oklahoma must fully comply with all the provisions of the rules  
4 promulgated by the Board of Trustees pursuant to this section in  
5 order to continue receiving his or her monthly retirement benefit.

6 SECTION 2. This act shall become effective July 1, 2023.

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

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12 59-1-5605 CMA 01/05/23

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January 11, 2023

Representative Kyle Hilbert  
Room 406

Re: RBH No. 5605

RBH No. 5605 removes the earnings limitation for Oklahoma Teachers Retirement System retired participants under age 62 who returned to covered employment and continue to receive benefit payments.

RBH No. 5605 is a fiscal bill as defined by OPLAAA. The change can or might encourage active teachers to retire sooner since they will be able to return to teaching while receiving retirement benefits.

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