

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

HOUSE BILL 2745

By: Ford

AS INTRODUCED

An Act relating to public retirement systems; amending 62 O.S. 2011, Section 3103, as last amended by Section 1, Chapter 121, O.S.L. 2020 (62 O.S. Supp. 2020, Section 3103), which relates to the Oklahoma Pension Legislation Actuarial Analysis Act; modifying definition; amending 11 O.S. 2011, Section 50-115, as last amended by Section 3, Chapter 120, O.S.L. 2020 (11 O.S. Supp. 2020, Section 50-115), which relates to disability benefit computations; modifying computation of certain disability benefit; providing for use of certain compensation amount in determining disability benefit; and providing effective dates.

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

SECTION 1. AMENDATORY 62 O.S. 2011, Section 3103, as last amended by Section 1, Chapter 121, O.S.L. 2020 (62 O.S. Supp. 2020, Section 3103), 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

1 Senate, any conference committee of the House or Senate or by the
2 House or Senate;

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

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

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

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

18 a. which does not affect the cost or funding factors of a
19 retirement system,

20 b. which affects such factors only in a manner which does
21 not:

22 (1) grant a benefit increase under the retirement
23 system affected by the bill,

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- 1 (2) create an actuarial accrued liability for or
2 increase the actuarial accrued liability of the
3 retirement system affected by the bill, or
4 (3) increase the normal cost of the retirement system
5 affected by the bill,

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

1 if such persons had any prior service in the Oklahoma
2 Public Employees Retirement System prior to November
3 1, 2015,

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

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

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

3 (3) the lesser of two percent (2%) of the gross
4 annual retirement benefit of the member or One
5 Thousand Four Hundred Dollars (\$1,400.00) and
6 requires that the benefit may only be provided if
7 the funded ratio of the affected retirement
8 system would be greater than one hundred percent
9 (100%) after the benefit increase is paid, or

10 (4) the greater of two percent (2%) of the gross
11 annual retirement benefit of the volunteer
12 firefighter or One Hundred Dollars (\$100.00) for
13 persons who retired from the Oklahoma
14 Firefighters Pension and Retirement System as
15 volunteer firefighters and who did not retire
16 from the Oklahoma Firefighters Pension and
17 Retirement System as a paid firefighter.

18 As used in this subparagraph, "funded ratio" means the
19 figure derived by dividing the actuarial value of
20 assets of the applicable retirement system by the
21 actuarial accrued liability of the applicable
22 retirement system, ~~or~~

1 g. which provides a cost-of-living benefit increase
2 pursuant to the provisions of Sections 2 through 7 of
3 this act, or

4 h. which modifies the computation of the line-of-duty
5 disability benefit pursuant to the provisions of
6 Section 2 of this act.

7 A nonfiscal retirement bill shall include any retirement bill that
8 has as its sole purpose the appropriation or distribution or
9 redistribution of monies in some manner to a retirement system for
10 purposes of reducing the unfunded liability of such system or the
11 earmarking of a portion of the revenue from a tax to a retirement
12 system or increasing the percentage of the revenue earmarked from a
13 tax to a retirement system;

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

18 7. "Retirement bill" means any bill or joint resolution
19 introduced or any bill or joint resolution amended by a member of
20 the Oklahoma Legislature which creates or amends any law directly
21 affecting a retirement system. A retirement bill shall not mean a
22 bill or resolution that impacts the revenue of any state tax in
23 which a portion of the revenue generated from such tax is earmarked
24 for the benefit of a retirement system;

1 8. "Retirement bill having a fiscal impact" means any
2 retirement bill creating or establishing a retirement system and any
3 other retirement bill other than a nonfiscal retirement bill; and

4 9. "Retirement system" means the Teachers' Retirement System of
5 Oklahoma, the Oklahoma Public Employees Retirement System, the
6 Uniform Retirement System for Justices and Judges, the Oklahoma
7 Firefighters Pension and Retirement System, the Oklahoma Police
8 Pension and Retirement System, the Oklahoma Law Enforcement
9 Retirement System, or a retirement system established after January
10 1, 2006.

11 SECTION 2. AMENDATORY 11 O.S. 2011, Section 50-115, as
12 last amended by Section 3, Chapter 120, O.S.L. 2020 (11 O.S. Supp.
13 2020, Section 50-115), is amended to read as follows:

14 Section 50-115. A. The State Board is authorized to pay a
15 disability benefit to a member of the System or a pension to the
16 beneficiaries of such member eligible as hereinafter provided, not
17 exceeding the accrued retirement benefit of the member, except as
18 otherwise provided in this article. Such disability benefit shall
19 be payable immediately upon determination of eligibility. Any
20 preexisting condition identified at the time of any initial or
21 subsequent membership shall be used to offset the percentage of
22 impairment to the whole person in determining any disability
23 benefit. Once the initial disability benefit has been awarded by
24 the Board on the basis of the percentage of impairment to the whole

1 person, the member shall have no further recourse to increase the
2 awarded percentage of impairment.

3 B. In order for any member to be eligible for any disability
4 benefit, or the member's beneficiaries to be eligible for a pension,
5 the member must have complied with any agreement as to contributions
6 by the member and other members to any funds of the System where
7 said agreement has been made as provided by this article; and the
8 State Board must find:

9 1. That the member incurred a permanent total disability or a
10 permanent partial disability or died while in, and in consequence
11 of, the performance of duty as an officer; or

12 2. That such member has served ten (10) years and incurred a
13 permanent total disability or a permanent partial disability or has
14 died from any cause.

15 C. In the event of the death of any member who has been awarded
16 a disability benefit or is eligible therefor as provided in this
17 article, the member's beneficiary shall be paid the benefit.

18 D. 1. As of the date of determination by the State Board that
19 a member is physically or mentally disabled and that the disability
20 is permanent and partial or permanent and total as was incurred
21 while in, and in consequence of, the performance or duty as an
22 officer, the member shall be awarded a disability benefit on the
23 basis of the percentage of impairment to the whole person, as
24 defined by the most current standards of the impairment as outlined

1 in the "American Medical Association's Guides to the Evaluation of
 2 Permanent Impairment", as provided in the following table or as
 3 prescribed by paragraph 2 of this subsection with respect to
 4 injuries sustained as a result of a violent act:

5	1% to 49% impairment to whole person =	50% of the normal
6		disability benefit
7	50% to 74% impairment to whole person =	75% of the normal
8		disability benefit
9	75% to 100% impairment to whole person =	100% of the normal
10		disability benefit.

11 2. If an injury to a member results from a violent act as
 12 defined by this paragraph while in the performance of his or her
 13 duties as a police officer, the State Board shall make a
 14 determination that the member has sustained a one-hundred-percent
 15 disability and shall make the benefit award in accordance with that
 16 standard. As used in this paragraph, "violent act" means a violent
 17 attack upon the member by means of a dangerous weapon, including,
 18 but not limited to, a firearm, knife, automobile, explosive device
 19 or other dangerous weapon. In computing the disability benefit as
 20 provided by this paragraph, the System shall use the compensation
 21 paid to the highest paid nonsupervisory patrol officer in the
 22 employment of the municipality which employs the member who becomes
 23 disabled according to the standard prescribed by this paragraph or a
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1 one hundred percent (100%) disability based on the member's final
2 average salary whichever computation results in the highest benefit.

3 E. If the participating municipality denies a disabled member
4 the option of continuing employment instead of retiring on a
5 disability pension, then the burden of proof rests with the
6 participating municipality to show cause to the State Board that
7 there is no position as a sworn officer within the police department
8 of that municipality which the member can fill.

9 F. Upon determination by the State Board that a member is
10 physically or mentally disabled and that the disability is permanent
11 and total and that the member has completed ten (10) years of
12 credited service and is disabled by any cause, the member shall
13 receive a disability benefit on the basis of the member's accrued
14 retirement benefit. A permanent and total impairment equates to one
15 hundred percent (100%) of accrued retirement benefit.

16 G. Upon determination by the State Board that a member is
17 physically or mentally disabled and that the disability is permanent
18 and partial and that the member has completed ten (10) years of
19 credited service as a member and is disabled from any cause, the
20 member shall be awarded a disability benefit on the basis of the
21 member's years of credited service as a member and the percentage of
22 impairment to the whole person, as defined by the most current
23 standards of the impairment as outlined in the "American Medical
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1 Association's Guides to the Evaluation of Permanent Impairment", on
2 the basis of the following table:

3	1% to 24% impaired =	25% of accrued retirement benefit
4	25% to 49% impaired =	50% of accrued retirement benefit
5	50% to 74% impaired =	75% of accrued retirement benefit
6	75% to 99% impaired =	90% of accrued retirement benefit.

7 H. Before making a finding as to the disability of a member,
8 the State Board shall require that, if the member is able, the
9 member shall make a certificate as to the disability which shall be
10 subscribed and sworn to by the member. It shall also require a
11 certificate as to such disability to be made by some physician
12 licensed to practice in this state as selected by the State Board.
13 The State Board may require other evidence of disability before
14 making the disability benefit. The salary of any such member shall
15 continue while the member is so necessarily confined to such
16 hospital bed or home and necessarily requires medical care or
17 professional nursing on account of such sickness or disability for a
18 period of not more than six (6) months, after which said period the
19 other provisions of this article may apply. The State Board, in
20 making disability benefits, shall act upon the written request of
21 the member or without such request, if it deem it for the good of
22 the police department. Any disability benefits shall cease when the
23 member receiving same shall be restored to active service at a

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1 salary not less than three-fourths (3/4) of the member's average
2 monthly salary.

3 I. Any member of a police department of any municipality who,
4 in the line of duty, has been exposed to hazardous substances,
5 including but not limited to chemicals used in the manufacture of a
6 controlled dangerous substance or chemicals resulting from the
7 manufacture of a controlled dangerous substance, or to blood-borne
8 pathogens and who is later disabled from a condition that was the
9 result of such exposure and that was not revealed by the physical
10 examination passed by the member upon entry into the System shall be
11 presumed to have incurred such disability while performing the
12 officer's duties unless the contrary is shown by competent evidence.
13 The presumption created by this subsection shall have no application
14 whatever to any workers' compensation claim or claims, and it shall
15 not be applied or be relied upon in any way in workers' compensation
16 proceedings. All compensation or benefits due to any member
17 pursuant to the presumption created by this subsection shall be paid
18 solely by the system.

19 J. If the requirements of Section 50-114.4 of this title are
20 satisfied, a member who, by reason of disability, is separated from
21 service as a public safety officer with the member's participating
22 municipality, may elect to have payment made directly to the
23 provider for qualified health insurance premiums by deduction from
24 his or her monthly disability benefit, after December 31, 2006, in

1 accordance with Section 402(1) of the Internal Revenue Code of 1986,
2 as amended.

3 SECTION 3. Section 1 of this act shall become effective October
4 1, 2021.

5 SECTION 4. Section 2 of this act shall become effective
6 November 1, 2021.

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8 58-1-7250 MAH 01/20/21

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THOMAS E. CUMMINS CONSULTING ACTUARY, INC.

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January 20, 2021

Representative Ross Ford
Room 453.2

Re: RBH No. 7250

RBH No. 7250 for a police officer who is disabled due a violent act the disability benefit shall be based on the highest compensation of the highest nonsupervisory officer in the employment of the municipality.

The bill also amends OPLAAA definition of a nonfiscal bill to include the above.

RBH No. 7250 is a nonfiscal bill as defined by OPLAAA as the result of the amendment.

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