

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2745

By: Ford and **Davis**

7
8
9 COMMITTEE SUBSTITUTE

10 An Act relating to public retirement systems;
11 amending 62 O.S. 2021, Section 3103, which relates to
12 the Oklahoma Pension Legislation Actuarial Analysis
13 Act; modifying definition; amending 11 O.S. 2021,
14 Section 50-115, which relates to disability benefit
15 computations; modifying computation of certain
16 disability benefit; providing for use of certain
17 compensation amount in determining disability
18 benefit; and providing effective dates.

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

20 SECTION 1. AMENDATORY 62 O.S. 2021, Section 3103, is
21 amended to read as follows:

22 Section 3103. As used in the Oklahoma Pension Legislation
23 Actuarial Analysis Act:

24 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,

24

- 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%)
24

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,

23 g. which modifies the disability pension standard for
24 police officers who are members of the Oklahoma Police

1 Pension and Retirement System as provided by Section 3
2 of this act, or

3 h. which provides a cost-of-living benefit increase
4 pursuant to the provisions of ~~Sections 2 through 7 of~~
5 ~~this act:~~

6 (1) Section 49-143.7 of Title 11 of the Oklahoma
7 Statutes,

8 (2) Section 50-136.9 of Title 11 of the Oklahoma
9 Statutes,

10 (3) Section 1104K of Title 20 of the Oklahoma
11 Statutes,

12 (4) Section 2-305.12 of Title 47 of the Oklahoma
13 Statutes,

14 (5) Section 17-116.22 of Title 70 of the Oklahoma
15 Statutes, or

16 (6) Section 930.11 of Title 74 of the Oklahoma
17 Statutes.

18 A nonfiscal retirement bill shall include any retirement bill that
19 has as its sole purpose the appropriation or distribution or
20 redistribution of monies in some manner to a retirement system for
21 purposes of reducing the unfunded liability of such system or the
22 earmarking of a portion of the revenue from a tax to a retirement
23 system or increasing the percentage of the revenue earmarked from a
24 tax to a retirement system;

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

5 7. "Retirement bill" means any bill or joint resolution
6 introduced or any bill or joint resolution amended by a member of
7 the Oklahoma Legislature which creates or amends any law directly
8 affecting a retirement system. A retirement bill shall not mean a
9 bill or resolution that impacts the revenue of any state tax in
10 which a portion of the revenue generated from such tax is earmarked
11 for the benefit of a retirement system;

12 8. "Retirement bill having a fiscal impact" means any
13 retirement bill creating or establishing a retirement system and any
14 other retirement bill other than a nonfiscal retirement bill; and

15 9. "Retirement system" means the Teachers' Retirement System of
16 Oklahoma, the Oklahoma Public Employees Retirement System, the
17 Uniform Retirement System for Justices and Judges, the Oklahoma
18 Firefighters Pension and Retirement System, the Oklahoma Police
19 Pension and Retirement System, the Oklahoma Law Enforcement
20 Retirement System, or a retirement system established after January
21 1, 2006.

22 SECTION 2. AMENDATORY 11 O.S. 2021, Section 50-115, is
23 amended to read as follows:

1 Section 50-115. A. The State Board is authorized to pay a
2 disability benefit to a member of the System or a pension to the
3 beneficiaries of such member eligible as hereinafter provided, not
4 exceeding the accrued retirement benefit of the member, except as
5 otherwise provided in this article. Such disability benefit shall
6 be payable immediately upon determination of eligibility. Any
7 preexisting condition identified at the time of any initial or
8 subsequent membership shall be used to offset the percentage of
9 impairment to the whole person in determining any disability
10 benefit. Once the initial disability benefit has been awarded by
11 the Board on the basis of the percentage of impairment to the whole
12 person, the member shall have no further recourse to increase the
13 awarded percentage of impairment.

14 B. In order for any member to be eligible for any disability
15 benefit, or the member's beneficiaries to be eligible for a pension,
16 the member must have complied with any agreement as to contributions
17 by the member and other members to any funds of the System where
18 said agreement has been made as provided by this article; and the
19 State Board must find:

20 1. That the member incurred a permanent total disability or a
21 permanent partial disability or died while in, and in consequence
22 of, the performance of duty as an officer; or
23
24

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

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

7 D. 1. As of the date of determination by the State Board that
 8 a member is physically or mentally disabled and that the disability
 9 is permanent and partial or permanent and total as was incurred
 10 while in, and in consequence of, the performance or duty as an
 11 officer, the member shall be awarded a disability benefit on the
 12 basis of the percentage of impairment to the whole person, as
 13 defined by the most current standards of the impairment as outlined
 14 in the "American Medical Association's Guides to the Evaluation of
 15 Permanent Impairment", as provided in the following table or as
 16 prescribed by paragraph 2 of this subsection with respect to
 17 injuries sustained as a result of a violent act:

18	1% to 49% impairment to whole person =	50% of the normal
19		disability benefit
20	50% to 74% impairment to whole person =	75% of the normal
21		disability benefit
22	75% to 100% impairment to whole person =	100% of the normal
23		disability benefit.

24

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

16 E. If the participating municipality denies a disabled member
17 the option of continuing employment instead of retiring on a
18 disability pension, then the burden of proof rests with the
19 participating municipality to show cause to the State Board that
20 there is no position as a sworn officer within the police department
21 of that municipality which the member can fill.

22 F. Upon determination by the State Board that a member is
23 physically or mentally disabled and that the disability is permanent
24 and total and that the member has completed ten (10) years of

1 credited service and is disabled by any cause, the member shall
 2 receive a disability benefit on the basis of the member's accrued
 3 retirement benefit. A permanent and total impairment equates to one
 4 hundred percent (100%) of accrued retirement benefit.

5 G. Upon determination by the State Board that a member is
 6 physically or mentally disabled and that the disability is permanent
 7 and partial and that the member has completed ten (10) years of
 8 credited service as a member and is disabled from any cause, the
 9 member shall be awarded a disability benefit on the basis of the
 10 member's years of credited service as a member and the percentage of
 11 impairment to the whole person, as defined by the most current
 12 standards of the impairment as outlined in the "American Medical
 13 Association's Guides to the Evaluation of Permanent Impairment", on
 14 the basis of the following table:

15	1% to 24% impaired =	25% of accrued retirement benefit
16	25% to 49% impaired =	50% of accrued retirement benefit
17	50% to 74% impaired =	75% of accrued retirement benefit
18	75% to 99% impaired =	90% of accrued retirement benefit.

19 H. Before making a finding as to the disability of a member,
 20 the State Board shall require that, if the member is able, the
 21 member shall make a certificate as to the disability which shall be
 22 subscribed and sworn to by the member. It shall also require a
 23 certificate as to such disability to be made by some physician
 24 licensed to practice in this state as selected by the State Board.

1 The State Board may require other evidence of disability before
2 making the disability benefit. The salary of any such member shall
3 continue while the member is so necessarily confined to such
4 hospital bed or home and necessarily requires medical care or
5 professional nursing on account of such sickness or disability for a
6 period of not more than six (6) months, after which said period the
7 other provisions of this article may apply. The State Board, in
8 making disability benefits, shall act upon the written request of
9 the member or without such request, if it deem it for the good of
10 the police department. Any disability benefits shall cease when the
11 member receiving same shall be restored to active service at a
12 salary not less than three-fourths (3/4) of the member's average
13 monthly salary.

14 I. Any member of a police department of any municipality who,
15 in the line of duty, has been exposed to hazardous substances,
16 including but not limited to chemicals used in the manufacture of a
17 controlled dangerous substance or chemicals resulting from the
18 manufacture of a controlled dangerous substance, or to blood-borne
19 pathogens and who is later disabled from a condition that was the
20 result of such exposure and that was not revealed by the physical
21 examination passed by the member upon entry into the System shall be
22 presumed to have incurred such disability while performing the
23 officer's duties unless the contrary is shown by competent evidence.
24 The presumption created by this subsection shall have no application

1 whatever to any workers' compensation claim or claims, and it shall
2 not be applied or be relied upon in any way in workers' compensation
3 proceedings. All compensation or benefits due to any member
4 pursuant to the presumption created by this subsection shall be paid
5 solely by the system.

6 J. If the requirements of Section 50-114.4 of this title are
7 satisfied, a member who, by reason of disability, is separated from
8 service as a public safety officer with the member's participating
9 municipality, may elect to have payment made directly to the
10 provider for qualified health insurance premiums by deduction from
11 his or her monthly disability benefit, after December 31, 2006, in
12 accordance with Section 402(1) of the Internal Revenue Code of 1986,
13 as amended.

14 SECTION 3. Section 1 of this act shall become effective October
15 1, 2022.

16 SECTION 4. Section 2 of this act shall become effective
17 November 1, 2022.

18
19 COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND
20 PENSIONS, dated 03/01/2022 - DO PASS, As Amended and Coauthored.
21
22
23
24