

SENATE FLOOR VERSION

April 13, 2022

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ENGROSSED HOUSE
BILL NO. 2745

By: Ford and Davis of the House
and
Pugh of the Senate

[public retirement systems - disability benefit
computations - effective dates]

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

SECTION 1. AMENDATORY 62 O.S. 2021, 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
Senate, any conference committee of the House or Senate or by the
House or Senate;

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

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

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

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

11 a. which does not affect the cost or funding factors of a
12 retirement system,

13 b. which affects such factors only in a manner which does
14 not:

15 (1) grant a benefit increase under the retirement
16 system affected by the bill,

17 (2) create an actuarial accrued liability for or
18 increase the actuarial accrued liability of the
19 retirement system affected by the bill, or

20 (3) increase the normal cost of the retirement system
21 affected by the bill,

22 c. which authorizes the purchase by an active member of
23 the retirement system, at the actuarial cost for the
24 purchase as computed pursuant to the statute in effect

1 on the effective date of the measure allowing such
2 purchase, of years of service for purposes of reaching
3 a normal retirement date in the applicable retirement
4 system, but which cannot be used in order to compute
5 the number of years of service for purposes of
6 computing the retirement benefit for the member,

7 d. which provides for the computation of a service-
8 connected disability retirement benefit for members of
9 the Oklahoma Law Enforcement Retirement System
10 pursuant to Section 2-305 of Title 47 of the Oklahoma
11 Statutes if the members were unable to complete twenty
12 (20) years of service as a result of the disability,

13 e. which requires membership in the defined benefit plan
14 authorized by Section 901 et seq. of Title 74 of the
15 Oklahoma Statutes for persons whose first elected or
16 appointed service occurs on or after November 1, 2018,
17 if such persons had any prior service in the Oklahoma
18 Public Employees Retirement System prior to November
19 1, 2015,

20 f. which provides for a one-time increase in retirement
21 benefits if the increase in retirement benefits is not
22 a permanent increase in the gross annual retirement
23 benefit payable to a member or beneficiary, occurs
24

1 only once pursuant to a single statutory authorization
2 and does not exceed:

3 (1) the lesser of two percent (2%) of the gross
4 annual retirement benefit of the member or One
5 Thousand Dollars (\$1,000.00) and requires that
6 the benefit may only be provided if the funded
7 ratio of the affected retirement system would not
8 be less than sixty percent (60%) but not greater
9 than eighty percent (80%) after the benefit
10 increase is paid,

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

19 (3) the lesser of two percent (2%) of the gross
20 annual retirement benefit of the member or One
21 Thousand Four Hundred Dollars (\$1,400.00) and
22 requires that the benefit may only be provided if
23 the funded ratio of the affected retirement
24

1 system would be greater than one hundred percent
2 (100%) after the benefit increase is paid, or
3 (4) the greater of two percent (2%) of the gross
4 annual retirement benefit of the volunteer
5 firefighter or One Hundred Dollars (\$100.00) for
6 persons who retired from the Oklahoma
7 Firefighters Pension and Retirement System as
8 volunteer firefighters and who did not retire
9 from the Oklahoma Firefighters Pension and
10 Retirement System as a paid firefighter.

11 As used in this subparagraph, "funded ratio" means the
12 figure derived by dividing the actuarial value of
13 assets of the applicable retirement system by the
14 actuarial accrued liability of the applicable
15 retirement system,

16 g. which modifies the disability pension standard for
17 police officers who are members of the Oklahoma Police
18 Pension and Retirement System as provided by Section ~~3~~
19 ~~of this act~~ 50-115 of Title 11 of the Oklahoma
20 Statutes, or

21 h. which provides a cost-of-living benefit increase
22 pursuant to the provisions of ~~Sections 2 through 7 of~~
23 ~~this act:~~
24

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

3 (2) Section 50-136.9 of Title 11 of the Oklahoma
4 Statutes,

5 (3) Section 1104K of Title 20 of the Oklahoma
6 Statutes,

7 (4) Section 2-305.12 of Title 47 of the Oklahoma
8 Statutes,

9 (5) Section 17-116.22 of Title 70 of the Oklahoma
10 Statutes, or

11 (6) Section 930.11 of Title 74 of the Oklahoma
12 Statutes.

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

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

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

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

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

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

20 Section 50-115. A. The State Board is authorized to pay a
21 disability benefit to a member of the System or a pension to the
22 beneficiaries of such member eligible as hereinafter provided, not
23 exceeding the accrued retirement benefit of the member, except as
24 otherwise provided in this article. Such disability benefit shall

1 be payable immediately upon determination of eligibility. Any
2 preexisting condition identified at the time of any initial or
3 subsequent membership shall be used to offset the percentage of
4 impairment to the whole person in determining any disability
5 benefit. Once the initial disability benefit has been awarded by
6 the Board on the basis of the percentage of impairment to the whole
7 person, the member shall have no further recourse to increase the
8 awarded percentage of impairment.

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

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

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

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

24

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

12	1% to 49% impairment to whole person =	50% of the normal
13		disability benefit
14	50% to 74% impairment to whole person =	75% of the normal
15		disability benefit
16	75% to 100% impairment to whole person =	100% of the normal
17		disability benefit.

18 2. If an injury to a member results from a violent act as
 19 defined by this paragraph while in the performance of his or her
 20 duties as a police officer, the State Board shall make a
 21 determination that the member has sustained a one-hundred-percent
 22 disability and shall make the benefit award in accordance with that
 23 standard. As used in this paragraph, "violent act" means a violent
 24 attack upon the member by means of a dangerous weapon, including,

1 but not limited to, a firearm, knife, automobile, explosive device
2 or other dangerous weapon. In computing the disability benefit as
3 provided by this paragraph, the System shall use the compensation
4 paid to the highest paid nonsupervisory patrol officer in the
5 employment of the municipality which employs the member who becomes
6 disabled according to the standard prescribed by this paragraph or a
7 one hundred percent (100%) disability based on the member's final
8 average salary whichever computation results in the highest benefit.

9 E. If the participating municipality denies a disabled member
10 the option of continuing employment instead of retiring on a
11 disability pension, then the burden of proof rests with the
12 participating municipality to show cause to the State Board that
13 there is no position as a sworn officer within the police department
14 of that municipality which the member can fill.

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

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

1 credited service as a member and is disabled from any cause, the
 2 member shall be awarded a disability benefit on the basis of the
 3 member's years of credited service as a member and the percentage of
 4 impairment to the whole person, as defined by the most current
 5 standards of the impairment as outlined in the "American Medical
 6 Association's Guides to the Evaluation of Permanent Impairment", on
 7 the basis of the following table:

8	1% to 24% impaired =	25% of accrued retirement benefit
9	25% to 49% impaired =	50% of accrued retirement benefit
10	50% to 74% impaired =	75% of accrued retirement benefit
11	75% to 99% impaired =	90% of accrued retirement benefit.

12 H. Before making a finding as to the disability of a member,
 13 the State Board shall require that, if the member is able, the
 14 member shall make a certificate as to the disability which shall be
 15 subscribed and sworn to by the member. It shall also require a
 16 certificate as to such disability to be made by some physician
 17 licensed to practice in this state as selected by the State Board.
 18 The State Board may require other evidence of disability before
 19 making the disability benefit. The salary of any such member shall
 20 continue while the member is so necessarily confined to such
 21 hospital bed or home and necessarily requires medical care or
 22 professional nursing on account of such sickness or disability for a
 23 period of not more than six (6) months, after which said period the
 24 other provisions of this article may apply. The State Board, in

1 making disability benefits, shall act upon the written request of
2 the member or without such request, if it deem it for the good of
3 the police department. Any disability benefits shall cease when the
4 member receiving same shall be restored to active service at a
5 salary not less than three-fourths (3/4) of the member's average
6 monthly salary.

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

23 J. If the requirements of Section 50-114.4 of this title are
24 satisfied, a member who, by reason of disability, is separated from

1 service as a public safety officer with the member's participating
2 municipality, may elect to have payment made directly to the
3 provider for qualified health insurance premiums by deduction from
4 his or her monthly disability benefit, after December 31, 2006, in
5 accordance with Section 402(1) of the Internal Revenue Code of 1986,
6 as amended.

7 SECTION 3. Section 1 of this act shall become effective October
8 1, 2022.

9 SECTION 4. Section 2 of this act shall become effective
10 November 1, 2022.

11 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
12 April 13, 2022 - DO PASS

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