An Act

ENROLLED HOUSE
BILL NO. 2032

By: Sullivan of the House

and

Newberry of the Senate

An Act relating to counties and county officers; amending 19 O.S. 2001, Sections 953, 953.1, 953.1A and 956.2, as amended by Section 1, Chapter 94, O.S.L. 2005 (19 O.S. Supp. 2010, Section 956.2), which relate to retirement systems of county employees; modifying population requirements; and declaring an emergency.

SUBJECT: Retirement systems of county employees

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

SECTION 1. AMENDATORY 19 O.S. 2001, Section 953, is amended to read as follows:

Section 953. A. Every county establishing a retirement fund and system and having a population in excess of ~~five hundred ninety thousand (590,000)~~ six hundred seventy-five thousand (675,000) according to the latest Federal Decennial Census is hereby authorized to contribute to such fund and to pay to the treasurer of such fund for the use and benefit of the persons eligible for retirement benefits such amounts as the board of trustees may authorize by resolution not exceeding the limitation as provided in Section 954 of this title. Money on hand in this fund shall not be available for any other purpose and shall not be used for any purpose other than for retirement benefits to eligible persons except as provided in Section 952.2 of this title; provided that should any county employee who has contributed to such retirement fund cease, either by resignation, discharge or failure of re-election, to be a county employee at any time before such employee becomes eligible for retirement, such employee shall be entitled to receive from the retirement fund an amount, without interest, equal to the sum deducted from his or her salary and credited to the retirement fund, and the board of trustees is hereby authorized and required, on written demand of such employee, to return to such employee, without interest, all funds contributed by such employee; and, provided further, that should any county employee whose services as such employee shall have ceased prior to such employee being eligible for retirement, and should such employee have withdrawn his or her contribution to the retirement fund as provided herein, such employee shall not thereafter become eligible for retirement unless he or she shall have paid into the pension fund all money previously withdrawn therefrom by such employee by September 1, 1984, for those employees that again became county employees prior to July 1, 1984, and within sixty (60) days after an employee again becomes a county employee for those employees that again become county employees on or after July 1, 1984.

B. Every county establishing a retirement fund and system and not having a population in excess of ~~five hundred ninety thousand (590,000)~~ <u>six hundred seventy-five thousand (675,000)</u> according to the latest Federal Decennial Census is hereby authorized to contribute to such fund and to pay to the treasurer of such fund for the use and benefit of the persons eligible for retirement benefits such amounts as the board of trustees may authorize by resolution not exceeding the limitation as provided in Section 954 of this title. Money on hand in this fund shall not be available for any other purpose and shall not be used for any purpose other than for retirement benefits to eligible persons except as provided in Section 952.2 of this title; provided that should any county employee who has contributed to such retirement fund cease, either by resignation, discharge or failure of re-election, to be a county employee at any time before such employee becomes eligible for retirement, such employee shall be entitled to receive from the retirement fund an amount, without interest, equal to the sum deducted from his or her salary and credited to the retirement fund, and the board of trustees is hereby authorized and required, on written demand of such employee, to return to such employee, without interest, all funds contributed by such employee; and, provided further, that should any county employee whose services as such employee shall have ceased prior to such employee being eligible for retirement, and should such employee have withdrawn his or her contribution to the retirement fund as provided herein, such an employee, otherwise meeting the eligibility requirements for membership, who has withdrawn his or her accumulated contributions at any period of time, and who wishes to reinstate the creditable service covered by such contributions, shall pay the system the full amount of contributions previously withdrawn with interest thereon at the annual percentage rate of ten percent (10%) from the date withdrawn. The withdrawn contributions plus interest must be repaid by August 31, 1994 to reinstate such creditable service. Any increase in benefits resulting from reinstatement of creditable service under this subsection shall be prospective from the date of repayment. Nothing in this subsection shall apply to alter any amount of benefits paid or due prior to repayment of the withdrawn contributions.

SECTION 2. AMENDATORY 19 O.S. 2001, Section 953.1, is amended to read as follows:

Section 953.1 A. The board of trustees shall discharge their duties with respect to the retirement system solely in the interest of the participants and beneficiaries and:

1. For the exclusive purpose of:

   a. providing benefits to participants and their beneficiaries, and

   b. defraying reasonable expenses of administering the retirement system;

2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

3. By diversifying the investments of the retirement system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

4. In accordance with the laws, documents and instruments governing the retirement system.

B. The monies of the retirement system shall be invested only in assets eligible for the investment of funds of legal reserve life insurance companies in this state as provided for in Sections 1602 through 1611, 1613 through 1620, and 1622 through 1624 of Title 36 of the Oklahoma Statutes. The term "admitted assets" shall mean the amount of the monies of the retirement system and the provisions relating to limitation of investments as a percentage of surplus and loans to policyholders shall be inapplicable with respect to investment of the monies of the retirement system. The monies of the retirement system may be invested in certificates of indebtedness or such other enforceable evidences of obligation as may be utilized in the rights-of-way acquisitions by the ~~Oklahoma~~ Department of Transportation. The monies of the retirement system may also be invested in bonds secured by first mortgages, pass-through securities and insured participation certificates representing interests in first mortgages or insured mortgage pass-through certificates on one-to four-family residences located within this state.

C. The board of trustees may procure insurance indemnifying the members of the board of trustees from personal loss or accountability from liability resulting from a member's action or inaction as a member of the board of trustees.

D. The board of trustees may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the board of trustees appointed by the chair of the board of trustees. The committee shall make recommendations to the full board of trustees on all matters related to the choice of custodians and managers of the assets of the retirement system, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the board of trustees in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the board of trustees nor take effect without the approval of the board of trustees as provided by law.

E. The board of trustees may retain qualified investment managers to provide for the investment of the monies of the retirement system. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the board of trustees. Subject to the overall investment guidelines set by the board of trustees, the investment managers shall have full discretion in the management of those monies of the retirement system allocated to the investment managers. The board of trustees shall manage those monies not specifically allocated to the investment managers. The monies of the retirement system allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

F. Funds and revenues for investment by the investment managers or the board of trustees may be placed with a custodian selected by the board of trustees. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the board of trustees. In compliance with the investment policy guidelines of the board of trustees, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the retirement system are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the retirement system as to the investment of the monies of the retirement system in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the board of trustees for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

G. By November 1, 1989, and prior to August 1 of each year thereafter, the board of trustees shall develop a written investment plan for the retirement system.

H. After July 1 and before October 1 of each year, the board of trustees shall publish widely an annual report presented in simple and easily understood language. The report shall be submitted to the board of county commissioners, and to the individual members of the retirement system. The annual report shall cover the operation of the retirement system during the past fiscal year, including income, disbursements, and the financial condition of the retirement system at the end of the fiscal year. The annual report shall also include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time as well as a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over-funded status, contributions and any other information deemed relevant by the board of trustees. The annual report shall be written in such a manner as to permit a readily understandable means for analyzing the financial condition and performance of the retirement system for the fiscal year.

I. The requirements of this section shall apply to retirement funds and systems in counties which have a population in excess of ~~five hundred ninety thousand (590,000)~~ six hundred seventy-five thousand (675,000) according to the latest Federal Decennial Census.

SECTION 3. AMENDATORY 19 O.S. 2001, Section 953.1A, is amended to read as follows:

Section 953.1A A. The board of trustees shall discharge their duties with respect to the retirement system solely in the interest of the participants and beneficiaries and:

1. For the exclusive purpose of:

   a. providing benefits to participants and their beneficiaries, and

   b. defraying reasonable expenses of administering the retirement system;

2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

3. By diversifying the investments of the retirement system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

4. In accordance with the laws, documents and instruments governing the retirement system.

B. The board of trustees may procure insurance indemnifying the members of the board of trustees from personal loss or accountability from liability resulting from a member's action or inaction as a member of the board of trustees.

C. The board of trustees may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the board of trustees appointed by the chair of the board of trustees. The committee shall make recommendations to the full board of trustees on all matters related to the choice of custodians and managers of the assets of the retirement system, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the board of trustees in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the board of trustees nor take effect without the approval of the board of trustees as provided by law.

D. The board of trustees shall retain qualified investment managers to provide for the investment of the monies of the retirement system. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the board of trustees. Subject to the overall investment guidelines set by the board of trustees, the investment managers shall have full discretion in the management of those monies of the retirement system allocated to the investment managers. The board of trustees shall manage those monies not specifically allocated to the investment managers. The monies of the retirement system allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

E. Funds and revenues for investment by the investment managers or the board of trustees shall be placed with a custodian selected by the board of trustees. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the board of trustees. In compliance with the investment policy guidelines of the board of trustees, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the retirement system are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the retirement system as to the investment of the monies of the retirement system in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the board of trustees for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

F. Prior to August 1 of each year, the board of trustees shall develop a written investment plan for the retirement system.

G. The board of trustees shall compile a quarterly financial report of all the funds of the system on a fiscal year basis. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The report shall be distributed to the board of county commissioners.

H. After July 1 and before December 1 of each year, the board of trustees shall publish widely an annual report presented in simple and easily understood language. The report shall be submitted to the board of county commissioners, and to the individual members of the retirement system. The annual report shall cover the operation of the retirement system during the past fiscal year, including income, disbursements, and the financial condition of the retirement system at the end of the fiscal year. The annual report shall also include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time as well as a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over-funded status, contributions and any other information deemed relevant by the board of trustees. The annual report shall be written in such a manner as to permit a readily understandable means for analyzing the financial condition and performance of the retirement system for the fiscal year.

I. The requirements of this section shall apply to retirement funds and systems in counties which do not have a population in excess of ~~five hundred ninety thousand (590,000)~~ six hundred seventy-five thousand (675,000) according to the latest Federal Decennial Census.

SECTION 4. AMENDATORY 19 O.S. 2001, Section 956.2, as amended by Section 1, Chapter 94, O.S.L. 2005 (19 O.S. Supp. 2010, Section 956.2), is amended to read as follows:

Section 956.2 A. In lieu of the retirement benefits specified in Section 956 of this title, upon approval by the board of trustees and the board of county commissioners, a county authorized to provide a retirement system pursuant to the provisions of Section 951 et seq. of this title, with a population in excess of ~~five hundred ninety thousand (590,000)~~ six hundred seventy-five thousand (675,000), may provide for retirement benefits for the retirement system based upon the contributions of the individual employee, if any, contributions of the county for the benefit of such employee, if any, together with earnings accruals thereon for such periods of time as the board of trustees and the board of county commissioners, in their discretion, may determine best meets the purpose of the retirement system. Notwithstanding any other provision in this section, a retirement benefits plan based upon the contributions by or for the benefit of an employee hired prior to November 1, 2005, as provided in this subsection shall be subject to the following vesting restrictions:

1. Twenty percent (20%) vesting after two (2) years of service;

2. Forty percent (40%) vesting after three (3) years of service;

3. Sixty percent (60%) vesting after four (4) years of service; and

4. One hundred percent (100%) vesting after five (5) years of service.

These vesting restrictions are for the benefit of a participating member or other designated beneficiary after the employment of the member is permanently terminated with a participating employer of the retirement plan. An employee is permanently terminated after termination from employment with a participating employer after passage of the period of time specified in the retirement plan. Pending permanent termination of an employee, the nonvested portion of the monies will be held in escrow until the time for reinstatement has lapsed as specified in the retirement plan. After the time for reinstatement has lapsed, any nonvested forfeitures shall be used to offset prospective employer contributions or to pay expenses associated with the retirement plan.

B. A retirement benefits plan based upon the contributions by or for the benefit of an employee hired on or after November 1, 2005, as provided in this subsection shall be subject to full vesting after five (5) years of service. There shall be no partial vesting for employees hired on or after November 1, 2005.

C. Notwithstanding other provisions of law, the accumulated vested benefits of a member, as provided in this section, who dies before retirement or permanent termination of employment, may be withdrawn from time to time in whole or in part by the beneficiary of the deceased member upon application to the Board of Trustees in a manner prescribed by the Board of Trustees.

D. If a county elects to provide benefits pursuant to this section, all persons participating in the existing system shall be given the option of remaining subject to the existing retirement system. All persons becoming members of the retirement system after the effective date of this act would be required to participate in the defined contribution benefit system specified in this section. Upon approval of the board of trustees and the board of county commissioners, the existing liabilities under the defined benefits system provided in Section 956 of this title and the liabilities accrued under the defined contribution benefit system provided in this section may be funded by annuities purchased from annuity or insurance companies licensed to do business in this state as recommended by the board of trustees and approved by the board of county commissioners.

E. All administrative costs associated with the operation of a defined benefit retirement system shall be paid exclusively from the contributions made by the employer on behalf of employees electing to participate in the defined benefit retirement system, the contributions made by individual employees electing to participate in the defined benefit retirement system and any income generated from investment of the funds of the defined benefit retirement system.

F. No costs associated with the operation of a defined contribution retirement system may be paid from funds used in the operation of a defined benefit retirement system. Said costs associated with the operation of the defined contribution retirement system shall be paid for by the county from the county general fund as defined by Section 331 of Title 62 of the Oklahoma Statutes or from any other monies available which are not specifically prohibited from being used for this purpose.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 17th day of May, 2011.

Presiding Officer of the House of Representatives

Passed the Senate the 18th day of May, 2011.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 19th

day of May, 20 11,

at 2:12 o'clock PM.

By: Jessie R. Pryor

Approved by the Governor of the State of Oklahoma the 25th day of

May, 20 11, at 9:51 o'clock AM.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

25th day of May, 20 11,

at 11:19 o'clock A M.

By: Michelle R Day