An Act

ENROLLED SENATE
BILL NO. 1115

By: Brown of the Senate

and

Moore and McDaniel (Randy)
of the House

An Act relating to the Oklahoma Law Enforcement Retirement Board; amending 47 O.S. 2011, Section 2-303.1, as amended by Section 1, Chapter 52, O.S.L. 2012 (47 O.S. Supp. 2012, Section 2-303.1), which relates to the actuarial assumption of the Board; deleting requirement to include COLA assumption; amending 47 O.S. 2011, Section 2-305, as amended by Section 2, Chapter 307, O.S.L. 2012 (47 O.S. Supp. 2012, Section 2-305), which relates to retirement; modifying definitions; clarifying language; and providing an effective date.

SUBJECT: Duties of the Oklahoma Law Enforcement Retirement System Board

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 2-303.1, as amended by Section 1, Chapter 52, O.S.L. 2012 (47 O.S. Supp. 2012, Section 2-303.1), is amended to read as follows:

Section 2-303.1. A. The Oklahoma Law Enforcement Retirement Board shall discharge its duties with respect to the 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 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 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 System.

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

C. The Board may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the Board appointed by the president of the Board. The committee shall make recommendations to the full Board on all matters related to the choice of custodians and managers of the assets of the 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 in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the Board nor take effect without the approval of the Board as provided by law.

D. The Board shall retain qualified investment managers to provide for the investment of the monies of the System. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board. Subject to the overall investment guidelines set by the Board, the

investment managers shall have full discretion in the management of those monies of the System allocated to the investment managers. The Board shall manage those monies not specifically allocated to the investment managers. The monies of the 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. All assets of the System shall be held in trust for the exclusive purpose of providing benefits for the members and beneficiaries of the System, including defraying reasonable expenses of administering the System, and shall not be encumbered for or diverted to any other purposes. Funds and revenues for investment by the investment managers or the Board shall be placed with a custodian selected by the Board. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services, and any related custodial agreement or trust agreement is incorporated herein by reference. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board. In compliance with the investment policy guidelines of the Board, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the 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 System as to the investment of the monies of the System in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the Board for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles. Any assets of the System may be invested in a collective investment fund or in a group trust provided the investment in such collective investment fund or group trust is in compliance with the provisions of Rev. Rul. 81-100, as further amended by Rev. Rul. 2004-67, Rev. Rul. 2008-40, and Rev. Rul. 2011-1, or any successor ruling, regulation, or similar pronouncement. Each such collective investment fund or group trust is adopted with respect to any monies invested therein, as part of the System, its trust and custodial agreement, and the provisions of such trust agreement or such declaration of trust and related adoption, participation, investment

management, subtrust or other agreements, as amended from time to time, with respect to any monies invested therein, are incorporated by reference into the System, its trust agreement(s) or custodial agreement(s), upon approval by the Board.

F. Prior to August 1 of each year, the Board shall develop a written investment plan for the System.

G. The Board shall compile a quarterly financial report of all the funds of the System on a fiscal year basis. The report shall be compiled pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. 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 Board shall include in the quarterly reports all commissions, fees or payments for investment services performed on behalf of the Board. The report shall be distributed to the Governor, the Oklahoma State Pension Commission, the Legislative Service Bureau, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

H. After July 1 and before October 31 of each year, the Board shall publish widely an annual report presented in simple and easily understood language pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Oklahoma State Pension Commission and the members of the System. The annual report shall cover the operation of the System during the past fiscal year, including income, disbursements, and the financial condition of the System at the end of the fiscal year. The annual report shall also contain the information issued in the quarterly reports required pursuant to subsection G of this section 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. 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 System for the fiscal year. The annual financial statements must be audited and filed in accordance with the requirements set forth for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes.

I. The Board may retain an attorney licensed to practice law in this state. The attorney shall serve at the pleasure of the Board for such compensation as set by the Board. The Attorney General shall furnish such legal services as may be requested by the Board.

J. All information, documents and copies thereof contained in a member's retirement file shall be given confidential treatment and shall not be made public by the System without the prior written consent of the member to which it pertains, but shall be subject only to court order. Provided, the System, its employees or attorneys, may use such records in defense of any action brought against the System.

K. Effective July 1, 1999, the Board is hereby authorized to do all acts and things necessary and proper to carry out the purpose of the System and to make the least costly amendments and changes, if any, as may be necessary to qualify the System under the applicable sections of the Internal Revenue Code of 1986, as amended.

L. ~~The Board shall adopt a cost of living adjustment actuarial assumption in its annual actuarial valuation report.~~

~~M.~~ The Executive Director and such employees of the System as the Executive Director may designate are hereby authorized to prepare certified copies of records of the System and every such certified copy shall be admissible in any proceeding in any court in like manner as the original thereof.

~~N.~~ M. On or after July 1, 2011, the Board may permit, effective for applicable notices, elections and consents provided or made for a member, beneficiary, alternate payee or individual entitled to benefits under the System, the use of electronic media to provide applicable notices and make such elections and consents as described in Section 1.401(a)-21 of the Income Tax Regulations.

SECTION 2. AMENDATORY 47 O.S. 2011, Section 2-305, as amended by Section 2, Chapter 307, O.S.L. 2012 (47 O.S. Supp. 2012, Section 2-305), is amended to read as follows:

Section 2-305. A. Except as otherwise provided in this title, at any time after attaining normal retirement date, any member of the Oklahoma Law Enforcement Retirement System upon application for unreduced retirement benefits made and approved, may retire, and, during the remainder of the member's lifetime, receive annual retirement pay, payable in equal monthly payments, equal to two and one-half percent (2 1/2%) of the final average salary times years of credited service. If such retired member is reemployed by a state agency in a position which is not covered by the System, such retired member shall continue to receive in-service distributions from the System. Prior to September 19, 2002, if such retired member was reemployed by a state agency in a position which is covered by the System, such member shall continue to receive in-service distributions from the System and shall not accrue any further credited service. If such a member is reemployed by a state agency in a position which is covered by the System on or after September 19, 2002, such member's monthly retirement payments shall be suspended until such member retires and is not reemployed by a state agency in a position which is covered by the System.

B. Beginning July 1, 1994, members who retired or were eligible to retire prior to July 1, 1980 or their surviving spouses shall receive annual retirement pay, payable in equal monthly payments, equal to the greater of their current retirement pay, or two and one-half percent (2 1/2%) of the actual paid gross salary being currently paid to a highway patrol officer, at the time each such monthly retirement payment is made, multiplied by the retired member's years of credited service.

C. Except as otherwise provided by this subsection, members of the System whose salary is set by statute who have retired after completion of the mandatory twenty (20) years of service, and those members with statutory salaries who retire after reaching the mandatory twenty-year retirement, shall receive an annual retirement pay, payable in equal monthly installments, based upon the greater of either:

1. The top base pay currently paid to an active member, at the time each such monthly retirement payment is made, multiplied by two and one-half percent (2 1/2%) multiplied by the number of years of credited service and fraction thereof for the following positions:

a. Oklahoma Highway Patrolman,

b. Communications Dispatcher,

c. Capitol Patrolman,

d. Lake Patrolman,

e. Oklahoma State Bureau of Investigation - Special Agent or Criminalist; or

2. The member's final average salary as set forth in paragraph 9 of Section 2-300 of this title, multiplied by two and one-half percent (2 1/2%), and multiplied by the number of years of credited service and fraction thereof.

No member of the System retired prior to July 1, 2002, shall receive a benefit less than the amount the member is receiving as of June 30, 2002.

The provisions of paragraph 1 of this subsection shall not be applicable to any member whose first participating service with the System occurs on or after November 1, 2012.

D. Other members of the System whose retirement benefit is not otherwise prescribed by this section who have retired after completion of the mandatory twenty (20) years of service, and those members who retire after reaching the mandatory twenty-year retirement, shall receive an annual retirement pay, payable in equal monthly payments, based upon the greater of either:

1. The actual average salary currently paid to the highest nonsupervisory position in the participating agency, at the time each such monthly payment is made, multiplied by two and one-half percent (2 1/2%), multiplied by the number of years of credited service and fraction thereof for the following positions:

a. Alcoholic Beverage Laws Enforcement Commission - ABLE Commission Agent III,

b. Oklahoma State Bureau of Narcotics and Dangerous Drugs Control - Narcotics Agent III,

c. Oklahoma Tourism and Recreation Department - Park Ranger II,

d. State Board of Pharmacy - Pharmacy Inspector,

e. University of Oklahoma - Police Officer,

f. Oklahoma State University - Police Officer; or

2. The other member's final average salary as set forth in paragraph 9 of Section 2-300 of this title, multiplied by two and one-half percent (2 1/2%), multiplied by the number of years of credited service and fraction thereof.

No member of the System retired prior to July 1, 2002, shall receive a benefit less than the amount the member is receiving as of June 30, 2002. The participating employer must certify to the System in writing the actual average gross salary currently paid to the highest nonsupervisory position. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this section.

E. A member who meets the definition of disability as defined in paragraph 11 of Section 2-300 of this title by direct reason of the performance of the member's duties as an officer shall receive a monthly benefit equal to the greater of fifty percent (50%) of final average salary or two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of the member's credited service. If such member participates in the Oklahoma Law Enforcement Deferred Option Plan pursuant to Section 2-305.2 of this title, then such member's disability pension provided pursuant to this subsection shall be reduced to account for such member's participation in the Oklahoma Law Enforcement Deferred Option Plan.

F. A member who meets the definition of disability as defined in paragraph 11 of Section 2-300 of this title and whose disability

is by means of personal and traumatic injury of a catastrophic nature and in the line of duty, shall receive a monthly benefit equal to:

1. Two and one-half percent (2 1/2%);

2. Multiplied by:

   a. twenty (20) years of service, regardless of the actual number of years of credited service performed by the member prior to the date of disability, if the member had performed less than twenty (20) years of service, or

   b. the actual number of years of service performed by the member if the member had performed twenty (20) or more years of service;

3. Multiplied by a final average salary equal to:

   a. the salary which the member would have received pursuant to statutory salary schedules in effect upon the date of the disability for twenty (20) years of service prior to disability. The final average salary for a member who performed less than twenty (20) years of service prior to disability shall be computed assuming that the member was paid the highest salary allowable pursuant to the law in effect at the time of the member's disability based upon twenty (20) years of service and with an assumption that the member was eligible for any and all increases in pay based upon rank during the entire period. If the salary of a member is not prescribed by a specific salary schedule upon the date of the member's disability, the final average salary for the member shall be computed by the member's actual final average salary or the highest median salary amount for a member whose salary was prescribed by a specific salary schedule upon the date of the member's disability, whichever final average salary amount would be greater, or

b. the actual final average salary of the member if the member had performed twenty (20) or more years of service prior to disability.

If such member participates in the Oklahoma Law Enforcement Deferred Option Plan pursuant to Section 2-305.2 of this title, such member's disability pension provided pursuant to this subsection shall be adjusted as provided in Section 2-305.2 of this title to account for such member's participation in the Oklahoma Law Enforcement Deferred Option Plan.

G. A member who meets the definition of disability as defined in Section 2-300 of this title and whose disability occurred prior to the member's normal retirement date but after completing three (3) years of vesting service and not by reason of the performance of the member's duties ~~as an officer~~ or as a result of the member's willful negligence shall receive a monthly benefit equal to two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of the member's credited service.

H. Payment of a disability pension shall commence as of the first day of the month coinciding or next following the date of retirement and shall continue as long as the member meets the definition of total and permanent disability provided in this section.

I. For the purpose of determining the member's disability under subsection E, F or G of this section, the member shall be required by the Board to be examined by a minimum of two recognized physicians selected by the Board to determine the extent of the member's injury or illness. The examining physicians shall furnish the Board a detailed written report of the injury or illness of the examined member establishing the extent of disability and the possibilities of the disabled member being returned to his or her regular duties or an alternate occupation or service covered by the System after a normal recuperation period. The Board shall require all retired disabled members who have not attained their normal retirement date to submit to a physical examination once each year for a minimum of three (3) years following retirement. The Board shall select a minimum of two physicians to examine the retired members and pay for their services from the fund. Any retired disabled member found no longer disabled by the examining physicians

to perform the occupation of the member or an alternate occupation or service covered by the System shall be required to return to duty and complete twenty (20) years of service as provided in subsection A of this section, or forfeit all his or her rights and claims under Section 2-300 et seq. of this title.

J. The disability benefit under this section shall be for the lifetime of the member unless such member is found no longer disabled pursuant to subsection I of this section. Such member shall not be entitled to the retirement benefit pursuant to subsection A of this section unless such member returns to active duty and is eligible for a retirement benefit as provided in subsection A of this section.

K. At the postoffer, preemployment physical examination required under paragraph 6 of Section 2-300 of this title, the physician selected by the Board shall determine the extent to which a new member is disabled. If a member is determined to be partially disabled, the physician shall assign a percentage of disability to such partial disability. If such member then becomes entitled to a disability benefit under either subsection E or subsection G of this section, the benefit payable shall be reduced by the percentage which such member was determined to be disabled at the postoffer, preemployment physical unless the Board makes a determination that the initially determined percentage of disability at the preemployment physical examination is unrelated to the reason for the disability currently sought pursuant to subsection E or subsection G of this section. Upon employment, the member shall disclose to the Board any disability payments received from any source. The amount of disability to be paid to any member cannot exceed one hundred percent (100%) disability from all sources. The provisions of this subsection shall apply only to members whose effective date of membership is on or after July 1, 2000.

L. In addition to the pension provided for under subsection F of this section, if said member has one or more children under the age of eighteen (18) years or under the age of twenty-two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education, Four Hundred Dollars ($400.00) a month shall be paid from said Fund for the support of each surviving child to the member or person having the care and custody of such children until each child

reaches the age of eighteen (18) years or reaches the age of twenty-two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education.

M. Notwithstanding any other provisions in Section 2-300 through 2-315 of this title, in order to be eligible to receive disability benefits, a member who meets the definition of disability as defined in paragraph 11 of Section 2-300 of this title shall file the member's completed application for disability benefits with the System before such member's date of termination from service and provide such additional information that the System's rules require within six (6) months of the System's receipt of such application. If the member's completed application for disability benefits is not filed with the System before the member's date of termination from service or such additional information as is required under the System's rules is not provided within six (6) months of the System's receipt of such application, such member shall be eligible only for such other benefits as are available to members of the System and shall not be eligible to receive any disability benefits.

N. If the requirements of Section 2-305.1C of this title are satisfied, a member who, by reason of disability or attainment of normal retirement date or age, is separated from service as a public safety officer with the member's participating employer may elect to have payment made directly to the provider for qualified health insurance premiums by deduction from his or her monthly disability benefit or monthly retirement payment, after December 31, 2006, in accordance with Section 402(1) of the Internal Revenue Code of 1986, as amended.

SECTION 3. This act shall become effective November 1, 2013.

Passed the Senate the 7th day of March, 2013.

Presiding Officer of the Senate

Passed the House of Representatives the 15th day of April, 2013.

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 16th day of April, 2013, at 1:18 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 22 day of April, 2013, at 3:30 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 22nd day of April, 2013, at 4:30 o'clock P. M.

By:

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January 17, 2013

Senator Bill Brown
Room 413A

Re: RBS No. 299

RBS No. 299 is a cleanup bill for OLERS.

RBS No. 299 is a nonfiscal retirement bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act.

Thomas E. Cummins

Thomas E. Cummins, MAAA