

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 406

BY: HOBSON of the SENATE

and

CROCKER of the HOUSE

AS INTRODUCED

AN ACT RELATING TO STATE GOVERNMENT; AMENDING SECTION 113, CHAPTER 203, O.S.L. 1985, AS AMENDED BY SECTION 1, CHAPTER 85, O.S.L. 1988 AND 74 O.S. 1981, SECTION 913, AS LAST AMENDED BY SECTION 38, CHAPTER 340, O.S.L. 1990 (74 O.S. SUPP. 1990, SECTIONS 840.7a AND 913), WHICH RELATE TO STATE EMPLOYEE RETIREMENT BENEFITS; MODIFYING SICK LEAVE FOR CERTAIN EMPLOYEES; ALLOWING EMPLOYEES TO USE CERTAIN UNUSED SICK LEAVE AS RETIREMENT CREDIT; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY Section 113, Chapter 203, O.S.L. 1985, as amended by Section 1, Chapter 85, O.S.L. 1988 (74 O.S. Supp. 1990, Section 840.7a), is amended to read as follows:

Section 840.7a The Administrator of the Office of Personnel Management shall promulgate such emergency and permanent rules regarding annual leave and sick leave as are necessary to assist the state and its agencies in the equitable implementation of the State Disability Insurance Program. Such rules shall be so designed as to

provide for coordination between leave accrual, leave accumulation, leave use, and eligibility for disability insurance coverage, such disability insurance coverage to be determined by the State Employees Group Health, Dental and Life Insurance Board.

The Office of Personnel Management, in adopting new rules, amending rules and repealing rules, shall ensure that the following provisions are incorporated:

1. Eligible employees who enter on duty or who are reinstated after a break in service shall receive leave benefits in accordance with the schedule outlined below. Leave will be accrued on a monthly basis and prorated, as appropriate, for less than full-time service.

2.	ACCRUAL RATES		ACCUMULATION LIMITS	
	Years of Annual Services Leave	Annual Leave	Sick Leave	Annual— <del>Sick</del> Leave <del>Leave</del>
	Persons employed 0-5 yrs = 15 day/yr	15 days	15 days	30 days <del>130</del>
	5-20 yrs = 18 day/yr	per year	60 days	<del>days</del>
	over 20 yrs = 20 day/yr		60 days	

All accrued annual ~~and sick~~ leave and all leave eligibility under Merit System ~~Rules~~ Rule 6.2.5 ~~and 6.3.15~~ which is in excess of these annual leave limits shall not be reduced or eliminated as a result of these rule changes.

3. Employees entering on duty in eligible status and eligible employees reinstated or reemployed following a break in service on or after July 1, 1985, shall accrue annual and sick leave in accordance with the provisions of paragraph 2 of this section on and after the effective date of this act, Section 840.1 et seq. of this title, but shall not be entitled to any additional leave for the period between July 1, 1985, and the effective date of this act as a result of the provisions of this act.

4. Temporary employees and other limited term employees are ineligible to accrue, use, or be paid for sick leave and annual leave. Such employees shall be eligible for paid holiday leave at the discretion of the appointing authority.

5. This act is not intended to mandate the amendment of any rule of the Office of Personnel Management except as provided herein.

SECTION 2. AMENDATORY 74 O.S. 1981, Section 913, as last amended by Section 38, Chapter 340, O.S.L. 1990 (74 O.S. Supp. 1990, Section 913), is amended to read as follows:

Section 913. (1) Prior service shall be credited as follows:

(a) A member shall receive full credit for employment with any participating employer prior to the entry date of his employer whether or not continuous and whether or not he was employed with a participating employer on such entry date, provided that any member who has retired before the passage of this act, Section 901 et seq. of this title, shall not receive retirement benefits retroactively for such prior service. Provided, that at such time that an employer becomes a participating employer on or after January 1, 1965, and before January 1, 1975, each member and each retirant, upon making proper written application therefor, shall receive prior service credit for service with such employer in the same manner as if such participating employer had been a participating employer on the date first eligible to become a participating employer; and increased benefits attributable to such increased prior service credit shall commence with the next monthly benefit payment due following receipt and approval of such application by the Board of Trustees. No prior service shall be granted, however, for periods of service in which the employee made contributions which he subsequently withdrew, unless he has complied with the provisions of subsection (5) of Section 917 of this title. The burden of proof

regarding prior service shall be with the member and shall be documented in such manner as the Board may direct.

(b) Any member who was employed in an institution of higher learning by a State Board of Regents or who was employed by an Oklahoma school district prior to July 1, 1943, may receive prior service credit under this act for the period of time they were so employed.

(c) Leaves of absence shall not be counted as breaks in continuous employment; however, leaves of absence shall not be credited except that involuntary furloughs established by Office of Personnel Management Rule 6.13, shall be credited.

(d) Any member who served in the Armed Forces of the United States, as defined in subsection (23) of Section 902 of this title, prior to membership in the Oklahoma Public Employees Retirement System shall be granted prior service credit, not to exceed five (5) years, for those periods of active military service during which he was a war veteran. Such prior military service credit shall not apply to any person receiving military retirement benefits other than service-connected disability benefits established by either the military service or the Veterans Administration.

(e) An elective state, county, city or town official who is ineligible for membership as a result of any applicable state law or constitutional provision making him ineligible solely because of his being such an official at the time of his eligibility for membership at the time his employer becomes a participating employer shall nevertheless not forfeit the prior service credit to which he would be entitled except for such ineligibility, provided that he either

(i) becomes an employee of a participating employer within four (4) calendar months of the expiration of his term of office current at the time of his eligibility except for his being an elective state or county official, or

(ii) within a period of four (4) years after the expiration of his term of office current at the time of his eligibility except for his being an elective state or county official, is elected as a state or county official and thereupon becomes a member of the System, or

(iii) has completed ten (10) years of credited service as of the date of his eligibility for membership except for his being an elective state or county official.

(f) Beginning July 1, 1965, all employees of the Department of Human Services shall participate in the Oklahoma Public Employees Retirement System to the same extent as other employees of participating employers in such System. Provided, that any employee performing teaching services in the Oklahoma School for the Deaf or the Oklahoma School for the Blind may elect to participate in the Teachers' Retirement System of Oklahoma in lieu of the Oklahoma Public Employees Retirement System; and any other employee at each such institution or any other institution under the jurisdiction of the Oklahoma Department of Human Services, participating in the Teachers' Retirement System of Oklahoma, may elect to continue to participate in such system in lieu of the Oklahoma Public Employees Retirement System. All employees who shall have participated in the Teachers' Retirement System of Oklahoma and not continuing therein shall have the right to withdraw their membership from the Teachers' Retirement System of Oklahoma on the same terms as other members withdrawing from such System before retirement. Provided, all persons employed at the Oklahoma School for the Blind and Oklahoma School for the Deaf on June 30, 1965, who became subject to the Oklahoma Public Employees Retirement System, on July 1, 1965, shall receive credit for prior service and be eligible for participation, regardless of age.

(g) A member employed as a temporary employee by the State Senate or the House of Representatives for the full duration of a regular legislative session prior to the member's eligibility for membership in the System shall receive six (6) months of prior service credit for each such full regular legislative session if the employee is employed by the State Senate or the House of Representatives as either a full-time or temporary employee for a minimum of six (6) full regular legislative sessions beginning January 1, 1983. For purposes of this subsection, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the State Senate if such employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives.

(h) Upon payment of a contribution prior to January 1, 1991, equal to ten percent (10%) of the annual compensation for each year of service purchased pursuant to this paragraph and interest thereon of not to exceed ten percent (10%) per annum to the System, a member of the System shall receive prior service credit for any years of service the member had with the Oklahoma conservation districts if the member is not receiving or eligible to receive such prior service credit for the same time in any other state or county retirement system authorized by law. Effective January 1, 1991, to receive the service credit, the member shall pay the amount determined by the Board pursuant to Section ~~39~~ 913.5 of this ~~act~~ title.

(2) Participating service shall be credited as follows:

(a) A member shall receive credit for participating service with a participating employer in accordance with the rules and regulations established by the Board; provided, however, that a member who is not a full-time employee shall receive prorated credit for actual hours worked.

(b) Leaves of absence shall not count as a break in continuous employment provided the member leaves his accumulated contribution on deposit with the fund; however, the leaves of absence shall not be credited.

(c) Any member who has served in the Armed Forces of the United States, as defined in subsection (23) of Section 902 of this title, shall be granted participating service for those periods of active military service during which he was a war veteran provided this service is immediately preceded by a period of employment with a participating employer and is followed by return to employment as an employee with the same or another participating employer within ninety (90) days immediately following discharge from such military service provided the member leaves his accumulated contributions on deposit with the fund.

(d) A period of total disability under the System immediately followed by employment with a participating employer, shall not count as a break in continuous employment; provided, that such periods while not employed shall not be credited except that involuntary furloughs established by Office of Personnel Management Rule 6.13, shall be credited.

(e) Termination of employment with a participating employer followed by employment with the same or another participating employer within four (4) calendar months shall not constitute a break in continuous employment; provided, that such period while not employed shall not be credited as participating service.

(f) Provided, however, that all employee contributions required by this act made by employees prior to June 30, 1977, will entitle the employee to additional years of participating service in accordance with the following schedule.

Employee accumulated contributions:

More than \$1.00 up to \$500 = 1 year participating service

More than \$500 up to \$1,000 = 2 years participating service

More than \$1,000 up to \$1,500 = 3 years participating service

More than \$1,500 up to \$2,000 = 4 years participating service

More than \$2,000 = 5 years participating service

In no event shall the employee be entitled to more than five (5) additional years of participating service as provided hereunder.

Provided further, that upon termination of employment prior to retirement, the accumulated contributions will be credited as above indicated to establish a vested benefit if so elected by any such employee.

(g) The total participating service credit of a member who retires or terminates employment and elects a vested benefit shall include not to exceed one hundred thirty (130) days of unused sick leave accumulated subsequent to August 1, 1959, during the member's employment with any participating employer. Such credit shall be added in terms of whole months. Twenty (20) days of unused sick leave shall equal one (1) month for purposes of participating service credit. If unused sick leave entitles a member to an additional year of service credit, the member's employer shall reimburse the System for the cost of funding the additional reserve. Each participating employer shall provide the System with adequate and timely information necessary to determine additional benefits and its cost under this paragraph. This paragraph shall apply to members retiring or vesting on or after July 1, 1984, and shall not be retroactive.

(3) In determining the number of years of credited service, a fractional year of six (6) months or more shall be considered as one (1) year, and less than six (6) months shall be disregarded.

(4) A member may receive credit for those years of credited service accumulated by the member while a member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System,

or the Teachers' Retirement System of Oklahoma, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. To receive the service credit, the member shall pay a five percent (5%) contribution and interest of not to exceed five percent (5%) as may be required by the Board for each year of service transferred pursuant to this subsection; provided, however, effective January 1, 1990, the rate of contribution provided herein shall be ten percent (10%) and the rate of interest shall not exceed ten percent (10%), as determined by the Board, and effective January 1, 1991, to receive the service credit, the member shall pay the amount determined by the Board pursuant to Section ~~39~~ 913.5 of this ~~act~~ title.

(5) A member may receive credit for those years of service accumulated by the member as an elected official if the member is not receiving or eligible to receive retirement credit or benefits from said service in any public retirement system. Prior to January 1, 1991, to receive the service credit, the member shall pay to the Board for each year of service purchased pursuant to this subsection a sum equal to the employee and employer contribution rate that would have been applicable to the member as determined by the Board and interest of not to exceed five percent (5%), and effective January 1, 1991, to receive the service credit, the member shall pay the amount determined by the Board pursuant to Section ~~39~~ 913.5 of this ~~act~~ title.

(6) A member may receive one (1) month credit for every one hundred sixty (160) hours of unused sick leave the member has accumulated.

SECTION 3. 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.

43-1-231

MJF