ENGROSSED HOUSE
BILL NO. 2489

By: Brannon of the House

and

Corn of the Senate

(Teachers' Retirement System of Oklahoma - amending 70 O.S., Section 17-116.10 - post-retirement earnings limitations - effective date - emergency)

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

SECTION 1. AMENDATORY 70 O.S. 2001, Section 17-116.10, as last amended by Section 1, Chapter 198, O.S.L. 2003 (70 O.S. Supp. 2003, Section 17-116.10), is amended to read as follows:

Section 17-116.10 A. Subject to the requirements of Section 6-101.2 of this title and any other applicable requirements of law, a member may enter into post-retirement employment with a public school of Oklahoma and still receive monthly retirement benefits subject to the following limitations:

1. A retired member is not eligible to be employed by the public schools of Oklahoma, in any capacity, for sixty (60) calendar days between the retiree's last day of pre-retirement public-education employment and any post-retirement public-education employment. For purposes of this section, the term "last day of pre-retirement employment" shall mean the last day the employee is required to be physically present on the job to complete the terms of the employment contract or agreement. Employment under any conditions during this time or payment at a later time for services performed during this time period shall cause the forfeiture of all retirement benefits received during the period;

2. Unless otherwise provided in paragraph 3 of this subsection, earnings from the public schools may not exceed one-half (1/2) of the member's final average salary used in computing retirement benefits, or the Earnings Limitation for employees allowed by the Social Security Administration, whichever is less. For retired members under the age of sixty-two (62) years, the limit on allowed earnings from the public schools of Oklahoma for employment for the performance of duties ordinarily performed by classified or nonclassified personnel shall be the lesser of Fifteen Thousand Dollars ($15,000.00) or one-half (1/2) of the member's final average salary used in computing retirement benefits unless the earnings limitation allowed by the Social Security Administration would be greater than Fifteen Thousand Dollars ($15,000.00). For retired members sixty-two (62) years of age or older the limit on allowed earnings from the public schools of Oklahoma for the performance of duties ordinarily performed by classified or nonclassified personnel shall be the lesser of Thirty Thousand Dollars ($30,000.00) or one-half (1/2) of the member's final average salary used in computing retirement benefits. For purposes of this paragraph, the following shall apply:

a. earnings shall mean "regular annual compensation" as defined in paragraph (25) of Section 17-101 of this title, and shall include any payment by a public school for services rendered by a retired member who is employed for any purpose whatsoever. Supplemental retirement payments paid by a former public school employer pursuant to subsection 9 of Section 17-105 of this title or other state law shall not be considered as earnings,

b. the Earnings Limitation for employees allowed by the Social Security Administration to workers between the age of sixty-two (62) years and sixty-five (65) years

shall apply to retired members below the age of sixty-two (62) years,

c. the limit on allowed earnings from the public schools shall be automatically adjusted effective the first day of January of each year to reflect the current Earnings Limitation for employees as determined from time to time by the Social Security Administration,

d. earnings in excess of the maximum limit on allowed earnings from public schools of Oklahoma shall result in a loss of future retirement benefits for the year the post-retirement employment was performed of One Dollar ($1.00) for each One Dollar ($1.00) earned over the maximum allowed earnings amount,

e. for those members age seventy (70) years and over, the earnings in excess of the maximum limit allowed earnings from public schools of Oklahoma shall be one-half (1/2) the member's final average salary used in computing retirement benefits. However, any retired member receiving benefits from the Retirement System who reached age seventy (70) years prior to July 1, 1991, shall not be restricted by the earnings limits pursuant to this subparagraph until January 1, 1994. To qualify for the provisions of this subparagraph, the member must be employed less than one-half (1/2) time compared to other full-time employees in similar positions;

3. Notwithstanding paragraph 2 of this subsection, a retired classified or nonclassified member who has been retired for ~~thirty-six (36)~~ sixty (60) or more ~~months~~ days, and who has retired from the system by having attained a combined age and years of service equal to or greater than ninety (90), and who is employed by a public school to perform duties ordinarily performed by classified

or nonclassified personnel shall be able to receive annualized earnings from the public school not to exceed Thirty Thousand Dollars ($30,000.00); and

4. A member shall be considered to be employed by a school district to perform the duties ordinarily performed by classified or nonclassified personnel if the member is hired by the school district in the member's individual capacity to perform the duties or if the member performs the duties through employment with a proprietorship, partnership, corporation, limited liability company or partnership, or any other business structure that has agreed or contracted to provide the services to the school district.

B. A public school district that employs a retired member shall be required to make contributions to the System for the retired member in an amount as required in Section 17-108.1 of this title.

C. For purposes of this section, post-retirement employment of less than one thousand (1,000) hours per year with the Governor, the State Senate, the House of Representatives or the Legislative Service Bureau shall not be considered as post-retirement employment with a public school of Oklahoma.

D. The Board of Trustees of the Teachers' Retirement System of Oklahoma shall promulgate such rules as are necessary to implement the provisions of this section.

E. A member who has entered into post-retirement employment with a participating employer of the Teachers' Retirement System of Oklahoma must fully comply with all the provisions of the rules promulgated by the Board of Trustees pursuant to this section in order to continue receiving his or her monthly retirement benefit.

SECTION 2. This act shall become effective July 1, 2004.

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.

Passed the House of Representatives the 11th day of March, 2004.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2004.

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Presiding Officer of the Senate