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THE STATE SENATE
Tuesday, February 15, 2005

Senate Bill No. 360

As Amended

SENATE BILL NO. 360 - By: CORN of the Senate and SWEEDEN of the House.

[retirement - Oklahoma Public Employees Retirement System -
amending certain military eligibility requirements -
emergency]

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 902, as last amended by Section 2, Chapter 539, O.S.L. 2004 (74 O.S. Supp. 2004, Section 902), is amended to read as follows:

Section 902. As used in Section 901 et seq. of this title:

(1) "System" means the Oklahoma Public Employees Retirement System as established by this act and as it may hereafter be amended;

(2) "Accumulated contributions" means the sum of all contributions by a member to the System which shall be credited to the member's account;

(3) "Act" means Sections 901 to 932, inclusive, of this title;

(4) "Actuarial equivalent" means a deferred income benefit of equal value to the accumulated deposits or benefits when computed upon the basis of the actuarial tables in use by the System;

1 (5) "Actuarial tables" means the actuarial tables approved and
2 in use by the Board at any given time;

3 (6) "Actuary" means the actuary or firm of actuaries employed
4 by the Board at any given time;

5 (7) "Beneficiary" means any person named by a member to receive
6 any benefits as provided for by Section 901 et seq. of this title.
7 If there is no beneficiary living at time of member employee's
8 death, the member's estate shall be the beneficiary;

9 (8) "Board" means the Oklahoma Public Employees Retirement
10 System Board of Trustees;

11 (9) "Compensation" means all salary and wages, as defined by
12 the Board of Trustees, including amounts deferred under deferred
13 compensation agreements entered into between a member and a
14 participating employer, but exclusive of payment for overtime,
15 payable to a member of the System for personal services performed
16 for a participating employer but shall not include compensation or
17 reimbursement for traveling, or moving expenses, or any compensation
18 in excess of the maximum compensation level, provided:

19 (a) For compensation for service prior to January 1, 1988,
20 the maximum compensation level shall be Twenty-five
21 Thousand Dollars (\$25,000.00) per annum.

22 For compensation for service on or after January 1,
23 1988, through June 30, 1994, the maximum compensation

1 level shall be Forty Thousand Dollars (\$40,000.00) per
2 annum.
3 For compensation for service on or after July 1, 1994,
4 through June 30, 1995, the maximum compensation level
5 shall be Fifty Thousand Dollars (\$50,000.00) per
6 annum; for compensation for service on or after July
7 1, 1995, through June 30, 1996, the maximum
8 compensation level shall be Sixty Thousand Dollars
9 (\$60,000.00) per annum; for compensation for service
10 on or after July 1, 1996, through June 30, 1997, the
11 maximum compensation level shall be Seventy Thousand
12 Dollars (\$70,000.00) per annum; and for compensation
13 for service on or after July 1, 1997, through June 30,
14 1998, the maximum compensation level shall be Eighty
15 Thousand Dollars (\$80,000.00) per annum. For
16 compensation for services on or after July 1, 1998,
17 there shall be no maximum compensation level for
18 retirement purposes.

19 (b) Compensation for retirement purposes shall include any
20 amount of elective salary reduction under Section 457
21 of the Internal Revenue Code of 1986 and any amount of
22 non-elective salary reduction under Section 414(h) of
23 the Internal Revenue Code of 1986.

1 (c) Notwithstanding any provision to the contrary, the
2 compensation taken into account for any employee in
3 determining the contribution or benefit accruals for
4 any plan year is limited to the annual compensation
5 limit under Section 401(a)(17) of the federal Internal
6 Revenue Code.

7 (d) Current appointed members of the Oklahoma Tax
8 Commission whose salary is constitutionally limited
9 and is less than the highest salary allowed by law for
10 his or her position shall be allowed, within ninety
11 (90) days from ~~the effective date of this act~~ March
12 21, 2001, to make an election to use the highest
13 salary allowed by law for the position to which the
14 member was appointed for the purposes of making
15 contributions and determination of retirement
16 benefits. Such election shall be irrevocable and be
17 in writing. Re-appointment to the same office shall
18 not permit a new election. Members appointed to the
19 Oklahoma Tax Commission after ~~the effective date of~~
20 ~~this act~~ March 21, 2001 shall make such election,
21 pursuant to this subparagraph, within ninety (90) days
22 of taking office;

1 (10) "Credited service" means the sum of participating service,
2 prior service and elected service;

3 (11) "Dependent" means a parent, child, or spouse of a member
4 who is dependent upon the member for at least one-half (1/2) of the
5 member's support;

6 (12) "Effective date" means the date upon which the System
7 becomes effective by operation of law;

8 (13) "Eligible employer" means the state and any county, county
9 hospital, city or town, conservation districts, and any public or
10 private trust in which a county, city or town participates and is
11 the primary beneficiary is to be an eligible employer for the
12 purpose of this act only, whose employees are covered by Social
13 Security and are not covered by or eligible for another retirement
14 plan authorized under the laws of this state which is in operation
15 on the initial entry date. Emergency medical service districts may
16 join the System upon proper application to the Board. Provided
17 affiliation by a county hospital shall be in the form of a
18 resolution adopted by the board of control.

19 (a) If a class or several classes of employees of any
20 above-defined employers are covered by Social Security
21 and are not covered by or eligible for and will not
22 become eligible for another retirement plan authorized
23 under the laws of this state, which is in operation on

1 the effective date, such employer shall be deemed an
2 eligible employer, but only with respect to that class
3 or those classes of employees as defined in this
4 section.

5 (b) A class or several classes of employees who are
6 covered by Social Security and are not covered by or
7 eligible for and will not become eligible for another
8 retirement plan authorized under the laws of this
9 state, which is in operation on the effective date,
10 and when the qualifications for employment in such
11 class or classes are set by state law; and when such
12 class or classes of employees are employed by a county
13 or municipal government pursuant to such
14 qualifications; and when the services provided by such
15 employees are of such nature that they qualify for
16 matching by or contributions from state or federal
17 funds administered by an agency of state government
18 which qualifies as a participating employer, then the
19 agency of state government administering the state or
20 federal funds shall be deemed an eligible employer,
21 but only with respect to that class or those classes
22 of employees as defined in this subsection; provided,
23 that the required contributions to the retirement plan

1 may be withheld from the contributions of state or
2 federal funds administered by the state agency and
3 transmitted to the System on the same basis as the
4 employee and employer contributions are transmitted
5 for the direct employees of the state agency. The
6 retirement or eligibility for retirement under the
7 provisions of law providing pensions for service as a
8 volunteer fire fighter shall not render any person
9 ineligible for participation in the benefits provided
10 for in Section 901 et seq. of this title. An employee
11 of any public or private trust in which a county, city
12 or town participates and is the primary beneficiary
13 shall be deemed to be an eligible employee for the
14 purpose of this act only.

15 (c) All employees of the George Nigh Rehabilitation
16 Institute who elected to retain membership in the
17 System, pursuant to Section 913.7 of this title, shall
18 continue to be eligible employees for the purposes of
19 this act. The George Nigh Rehabilitation Institute
20 shall be considered a participating employer only for
21 such employees.

22 (d) A participating employer of the Teachers' Retirement
23 System of Oklahoma, who has one or more employees who

1 have made an election pursuant to enabling legislation
2 to retain membership in the System as a result of
3 change in administration, shall be considered a
4 participating employer of the Oklahoma Public
5 Employees Retirement System only for such employees;

6 (14) "Employee" means any officer or employee of a
7 participating employer, whose employment is not seasonal or
8 temporary and whose employment requires at least one thousand
9 (1,000) hours of work per year and whose salary or wage is equal to
10 the hourly rate of the monthly minimum wage for state employees.
11 For those eligible employers outlined in Section 910 of this title,
12 the rate shall be equal to the hourly rate of the monthly minimum
13 wage for that employer. Each employer, whose minimum wage is less
14 than the state's minimum wage, shall inform the System of the
15 minimum wage for that employer. This notification shall be by
16 resolution of the governing body.

17 (a) Any employee of the county extension agents who is not
18 currently participating in the Teachers' Retirement
19 System of Oklahoma shall be a member of this System.

20 (b) Eligibility shall not include any employee who is a
21 contributing member of the United States Civil Service
22 Retirement System.

1 (c) It shall be mandatory for an officer, appointee or
2 employee of the office of district attorney to become
3 a member of this System if he or she is not currently
4 participating in a county retirement system. Provided
5 further, that if an officer, appointee or employee of
6 the office of district attorney is currently
7 participating in such county retirement system, he or
8 she is ineligible for this System as long as he or she
9 is eligible for such county retirement system. Any
10 eligible officer, appointee or employee of the office
11 of district attorney shall be given credit for prior
12 service as defined in this section. The provisions
13 outlined in Section 917 of this title shall apply to
14 those employees who have previously withdrawn their
15 contributions.

16 (d) Eligibility shall also not include any officer or
17 employee of the Oklahoma Employment Security
18 Commission, except for those officers and employees of
19 the Commission electing to transfer to this System
20 pursuant to the provisions of Section 910.1 of this
21 title or any other class of officers or employees
22 specifically exempted by the laws of this state,
23 unless there be a consolidation as provided by Section

1 912 of this title. Employees of the Oklahoma
2 Employment Security Commission who are ineligible for
3 enrollment in the Employment Security Commission
4 Retirement Plan, that was in effect on January 1,
5 1964, shall become members of this System.

6 (e) Any employee employed by the Legislative Service
7 Bureau, State Senate or House of Representatives for
8 the full duration of a regular legislative session
9 shall be eligible for membership in the System
10 regardless of classification as a temporary employee
11 and may participate in the System during the regular
12 legislative session at the option of the employee.
13 For purposes of this subparagraph, the determination
14 of whether an employee is employed for the full
15 duration of a regular legislative session shall be
16 made by the Legislative Service Bureau if such
17 employee is employed by the Legislative Service
18 Bureau, the State Senate if such employee is employed
19 by the State Senate, or by the House of
20 Representatives if such employee is employed by the
21 House of Representatives. Each regular legislative
22 session during which the legislative employee or an
23 employee of the Legislative Service Bureau

1 participates full time shall be counted as six (6)
2 months of full-time participating service.

3 (i) Except as otherwise provided by this
4 subparagraph, once a temporary session employee
5 makes a choice to participate or not, the choice
6 shall be binding for all future legislative
7 sessions during which the employee is employed.

8 (ii) Notwithstanding the provisions of division (i) of
9 this subparagraph, any employee, who is eligible
10 for membership in the System because of the
11 provisions of this subparagraph and who was
12 employed by the State Senate or House of
13 Representatives after January 1, 1989, may file
14 an election, in a manner specified by the Board,
15 to participate as a member of the System prior to
16 September 1, 1989.

17 (iii) Notwithstanding the provisions of division (i) of
18 this subparagraph, a temporary legislative
19 session employee who elected to become a member
20 of the System may withdraw from the System
21 effective the day said employee elected to
22 participate in the System upon written request to
23 the Board. Any such request must be received by

1 the Board prior to October 1, 1990. All employee
2 contributions made by the temporary legislative
3 session employee shall be returned to the
4 employee without interest within four (4) months
5 of receipt of the written request.

6 (iv) A member of the System who did not initially
7 elect to participate as a member of the System
8 pursuant to subparagraph (e) of this paragraph
9 shall be able to acquire service performed as a
10 temporary legislative session employee for
11 periods of service performed prior to the date
12 upon which the person became a member of the
13 System if:

14 a. the member files an election with the System
15 not later than December 31, 2000, to
16 purchase the prior service; and

17 b. the member makes payment to the System of
18 the actuarial cost of the service credit
19 pursuant to subsection A of Section 913.5 of
20 this title. The provisions of Section 913.5
21 of this title shall be applicable to the
22 purchase of the service credit, including
23 the provisions for determining service

1 credit in the event of incomplete payment
2 due to cessation of payments, death,
3 termination of employment or retirement, but
4 the payment may extend for a period not to
5 exceed ninety-six (96) months;

6 (15) "Entry date" means the date on which an eligible employer
7 joins the System. The first entry date pursuant to Section 901 et
8 seq. of this title shall be January 1, 1964;

9 (16) "Executive Director" means the managing officer of the
10 System employed by the Board under Section 901 et seq. of this
11 title;

12 (17) "Federal Internal Revenue Code" means the federal Internal
13 Revenue Code of 1954 or 1986, as amended and as applicable to a
14 governmental plan as in effect on July 1, 1999;

15 (18) "Final average compensation" means the average annual
16 compensation, including amounts deferred under deferred compensation
17 agreements entered into between a member and a participating
18 employer, up to, but not exceeding the maximum compensation levels
19 as provided in paragraph (9) of this section received during the
20 highest three (3) of the last ten (10) years of participating
21 service immediately preceding retirement or termination of
22 employment. Provided, no member shall retire with a final average

1 compensation unless the member has made the required contributions
2 on such compensation, as defined by the Board of Trustees;

3 (19) "Fiscal year" means the period commencing July 1 of any
4 year and ending June 30 of the next year. The fiscal year is the
5 plan year for purposes of the federal Internal Revenue Code;
6 however, the calendar year is the limitation year for purposes of
7 Section 415 of the federal Internal Revenue Code;

8 (20) "Fund" means the Oklahoma Public Employees Retirement Fund
9 as created by Section 901 et seq. of this title;

10 (21) "Leave of absence" means a period of absence from
11 employment without pay, authorized and approved by the employer and
12 acknowledged to the Board, and which after the effective date does
13 not exceed two (2) years;

14 (22) "Member" means an eligible employee or elected official
15 who is in the System and is making the required employee or elected
16 official contributions, or any former employee or elected official
17 who shall have made the required contributions to the System and
18 shall have not received a refund or withdrawal;

19 (23) "Military service" means service in the Armed Forces of
20 the United States by an honorably discharged person during the
21 following time periods, as reflected on such person's Defense
22 Department Form 214, not to exceed five (5) years for combined
23 participating and/or prior service, as follows:

- 1 (a) during the following periods, including the beginning
2 and ending dates, and only for the periods served,
3 from:
- 4 (i) April 6, 1917, to November 11, 1918, commonly
5 referred to as World War I,
 - 6 (ii) September 16, 1940, to December 7, 1941, as a
7 member of the 45th Division,
 - 8 (iii) December 7, 1941, to December 31, 1946, commonly
9 referred to as World War II,
 - 10 (iv) June 27, 1950, to January 31, 1955, commonly
11 referred to as the Korean Conflict or the Korean
12 War,
 - 13 (v) February 28, 1961, to May 7, 1975, commonly
14 referred to as the Vietnam era, except that:
15 a. ~~for the period from February 28, 1961, to~~
16 ~~August 4, 1964, military service shall only~~
17 ~~include service in the Republic of Vietnam~~
18 ~~during that period, and~~
19 b. ~~for purposes of determining eligibility for~~
20 ~~education and training benefits, such period~~
21 ~~shall end on December 31, 1976, or~~
 - 22 (vi) August 1, 1990, to December 31, 1991, commonly
23 referred to as the Gulf War, the Persian Gulf

1 War, or Operation Desert Storm, but excluding any
2 person who served on active duty for training
3 only, unless discharged from such active duty for
4 a service-connected disability;

5 (b) during a period of war or combat military operation
6 other than a conflict, war or era listed in
7 subparagraph (a) of this paragraph, beginning on the
8 date of Congressional authorization, Congressional
9 resolution, or Executive Order of the President of the
10 United States, for the use of the Armed Forces of the
11 United States in a war or combat military operation,
12 if such war or combat military operation lasted for a
13 period of ninety (90) days or more, for a person who
14 served, and only for the period served, in the area of
15 responsibility of the war or combat military
16 operation, but excluding a person who served on active
17 duty for training only, unless discharged from such
18 active duty for a service-connected disability, and
19 provided that the burden of proof of military service
20 during this period shall be with the member, who must
21 present appropriate documentation establishing such
22 service.

1 An eligible member under this paragraph shall include only those
2 persons who shall have served during the times or in the areas
3 prescribed in this paragraph, and only if such person provides
4 appropriate documentation in such time and manner as required by the
5 System to establish such military service prescribed in this
6 paragraph, ~~or for service pursuant to subdivision a of division (v)~~
7 ~~of subparagraph (a) of this paragraph those persons who were awarded~~
8 ~~service medals, as authorized by the United States Department of~~
9 ~~Defense as reflected in the veteran's Defense Department Form 214,~~
10 ~~related to the Vietnam Conflict for service prior to August 5, 1964;~~

11 (24) "Normal retirement date" means the date on which a member
12 may retire with full retirement benefits as provided in Section 901
13 et seq. of this title, such date being whichever occurs first:

- 14 (a) the first day of the month coinciding with or
15 following a member's sixty-second birthday,
- 16 (b) for any person who initially became a member prior to
17 July 1, 1992, the first day of the month coinciding
18 with or following the date at which the sum of a
19 member's age and number of years of credited service
20 total eighty (80); such a normal retirement date will
21 also apply to any person who became a member of the
22 sending system as defined in Section 901 et seq. of
23 this title, prior to July 1, 1992, regardless of

1 whether there were breaks in service after July 1,
2 1992,
3 (c) for any person who became a member after June 30,
4 1992, the first day of the month coinciding with or
5 following the date at which the sum of a member's age
6 and number of years of credited service total ninety
7 (90),
8 (d) in addition to subparagraphs (a), (b) and (c) of this
9 paragraph, the first day of the month coinciding with
10 or following a member's completion of at least twenty
11 (20) years of full-time-equivalent employment as:
12 (i) a correctional or probation and parole officer
13 with the Department of Corrections and at the
14 time of retirement, the member was a correctional
15 or probation and parole officer with the
16 Department of Corrections, or
17 (ii) a correctional officer, probation and parole
18 officer or fugitive apprehension agent with the
19 Department of Corrections who is in such position
20 on June 30, 2004, or who is hired after June 30,
21 2004, and who receives a promotion or change in
22 job classification after June 30, 2004, to
23 another position in the Department of

1 Corrections, so long as such officer or agent has
2 at least five (5) years of service as a
3 correctional officer, probation and parole
4 officer or fugitive apprehension agent with the
5 Department, has twenty (20) years of full-time-
6 equivalent employment with the Department and was
7 employed by the Department at the time of
8 retirement, or

9 (iii) a firefighter with the Oklahoma Military
10 Department either employed for the first time on
11 or after July 1, 2002, or who was employed prior
12 to July 1, 2002, in such position and who makes
13 the election authorized by division (1) of
14 subparagraph b of paragraph ~~(5)~~ (8) of subsection
15 A of Section 915 of this title and at the time of
16 retirement, the member was a firefighter with the
17 Oklahoma Military Department, and such member has
18 at least twenty (20) years of credited service
19 upon which the two and one-half percent (2 1/2%)
20 multiplier will be used in calculating the
21 retirement benefit,

22 (e) for those fugitive apprehension agents who retire on
23 or after July 1, 2002, the first day of the month

1 coinciding with or following a member's completion of
2 at least twenty (20) years of full-time-equivalent
3 employment as a fugitive apprehension agent with the
4 Department of Corrections and at the time of
5 retirement, the member was a fugitive apprehension
6 agent with the Department of Corrections, or
7 (f) for any member who was continuously employed by an
8 entity or institution within The Oklahoma State System
9 of Higher Education and whose initial employment with
10 such entity or institution was prior to July 1, 1992,
11 and who without a break in service of more than thirty
12 (30) days became employed by an employer participating
13 in the Oklahoma Public Employees Retirement System,
14 the first day of the month coinciding with or
15 following the date at which the sum of the member's
16 age and number of years of credited service total
17 eighty (80);

18 (25) "Participating employer" means an eligible employer who
19 has agreed to make contributions to the System on behalf of its
20 employees;

21 (26) "Participating service" means the period of employment
22 after the entry date for which credit is granted a member;

1 (27) "Prior service" means the period of employment of a member
2 by an eligible employer prior to the member's entry date for which
3 credit is granted a member under Section 901 et seq. of this title;

4 (28) "Retirant" means a member who has retired under the
5 System;

6 (29) "Retirement benefit" means a monthly income with benefits
7 accruing from the first day of the month coinciding with or
8 following retirement and ending on the last day of the month in
9 which death occurs or the actuarial equivalent thereof paid in such
10 manner as specified by the member pursuant to Section 901 et seq. of
11 this title or as otherwise allowed to be paid at the discretion of
12 the Board;

13 (30) "Retirement coordinator" means the individual designated
14 by each participating employer through whom System transactions and
15 communication shall be directed;

16 (31) "Social Security" means the old-age survivors and
17 disability section of the ~~Federal~~ federal Social Security Act;

18 (32) "Total disability" means a physical or mental disability
19 accepted for disability benefits by the Federal Social Security
20 System;

21 (33) "Service-connected disability benefits" means military
22 service benefits which are for a service-connected disability rated

1 at twenty percent (20%) or more by the Veterans Administration or
2 the Armed Forces of the United States;

3 (34) "Elected official" means a person elected to a state
4 office in the legislative or executive branch of state government or
5 a person elected to a county office for a definite number of years
6 and shall include an individual who is appointed to fill the
7 unexpired term of an elected state official;

8 (35) "Elected service" means the period of service as an
9 elected official; and

10 (36) "Limitation year" means the year used in applying the
11 limitations of Section 415 of the Internal Revenue Code of 1986,
12 which year shall be the calendar year.

13 SECTION 2. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

17 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND GROUP HEALTH, dated
18 2-8-05 - DO PASS, As Amended and Coauthored.