

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1620

By: Jolley

AS INTRODUCED

An Act relating to retirement; creating the Teacher Retirement Fairness and Freedom Act; providing short title; defining terms; authorizing certain alternate retirement plans for certain eligible employees; requiring certain benefits to be provided through alternate retirement plans; authorizing Board of Trustees of the Teachers' Retirement System of Oklahoma to establish alternate retirement plan; providing for determination of terms and conditions of plan; providing for administration of plan; providing for designation of certain entities; requiring the Board of Trustees of the Teachers' Retirement System to make certain annual determination; providing procedures for accepting elections to become member of certain retirement plan; prescribing certain period of election; providing for effect of failure to make election or failure to become eligible to participate; providing for effect of election to participate in Teachers' Retirement System; specifying employer and employee contributions to the alternate retirement plan; providing for ineligibility to participate in Teachers' Retirement System based upon certain election; prescribing period of duration for ineligibility; prohibiting service credit in Teachers' Retirement System during participation in alternate retirement plan; requiring written acknowledgment with respect to obligations; amending 70 O.S. 2001, Sections 17-102 and 17-103, as last amended by Section 10, Chapter 385, O.S.L. 2004 (70 O.S. Supp. 2005, Section 17-103), which relates to the Teachers' Retirement System of Oklahoma; requiring Board of Trustees of the Teachers' Retirement System of Oklahoma to administer certain plan; specifying membership of the Teachers' Retirement System; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-301 of Title 70, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 8 of this act shall be known and may be cited as the "Teacher Retirement Fairness and Freedom Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-302 of Title 70, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Participating employer" means any entity whose employees are currently eligible to be members of the Teachers' Retirement System of Oklahoma except participating institutions of the Alternate Retirement Plan for Comprehensive Universities Act;

2. "Alternate retirement plan" means any employee retirement plan that is created solely to provide benefits for eligible employees, as defined in this section, for periods of service on or after July 1, 2007. Such retirement plan shall be a plan meeting the requirements of Section 401(a) of the Internal Revenue Code of 1986, as amended, operated pursuant to the provisions of the Teacher Retirement Fairness and Freedom Act;

3. "Eligible employee" means any employee of a participating employer who:

- a. was initially appointed or hired after June 30, 2007, and
- b. meets the eligibility requirements of the alternate retirement plan as provided in the Teacher Retirement Fairness and Freedom Act.

However, the term eligible employee does not include a person whose employment is incidental to his or her educational program or whose employment is not continuous. Such eligible employees shall be eligible to participate in the alternate retirement plan if they make a one-time irrevocable written election pursuant to the Teacher Retirement Fairness and Freedom Act;

4. "One-time irrevocable written election" means a one-time election made pursuant to the Teacher Retirement Fairness and

Freedom Act by an eligible employee that shall be in writing and irrevocable and shall cover all future service with a participating entity regardless of a break in service; and

5. "Board of Trustees" means the board provided for in Section 17-106 of Title 70 of the Oklahoma Statutes to administer the Teachers' Retirement System of Oklahoma and to administer the alternate retirement system provided for in the Teacher Retirement Fairness and Freedom Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-303 of Title 70, unless there is created a duplication in numbering, reads as follows:

Alternate retirement plans for eligible employees are hereby authorized at participating employers in lieu of the retirement plan offered by the Teachers' Retirement System of Oklahoma. Alternate retirement plans, shall, for eligible employees provide retirement and death benefits to such employees through the purchase of annuity contracts, qualified retirement trusts or custodial accounts, fixed or variable in nature, or a combination thereof, at the option of the Board of Trustees.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-304 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. On or before June 30, 2008, the Board of Trustees of the Teachers' Retirement System of Oklahoma shall establish an alternate retirement plan pursuant to the provisions of the Teacher Retirement Fairness and Freedom Act, for the participating employers, for eligible employees in lieu of membership in the Teachers' Retirement System of Oklahoma. The Board of Trustees shall determine the terms and conditions of the alternate retirement plan including, by example, terms for eligibility, contributions, vesting and the amount of benefits, and provide for the administration of such an alternate retirement plan and perform or authorize the performance

of such functions as may be necessary for such purpose in accordance with the Teacher Retirement Fairness and Freedom Act.

B. The Board of Trustees shall select the company or companies that shall administer the qualified retirement trust, custodial accounts or from which annuity contracts are to be purchased under the alternate retirement plan and shall approve the form and content of all agreements governing such trusts, accounts or contracts.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-305 of Title 70, unless there is created a duplication in numbering, reads as follows:

The Board of Trustees shall designate one or more companies to provide for the funding of alternate retirement plan benefits through the purchase of annuity contracts, qualified retirement trusts or custodial accounts.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-306 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. By July 1 of each year, the Board of Trustees of the Oklahoma Teachers' Retirement System shall determine the number of eligible employees who are eligible to become members of the Teachers' Retirement System of Oklahoma for such fiscal year for the purposes of determining the number of eligible employees that are necessary to meet actuarial assumptions relating to unfunded liability of the System. The number of eligible employees in excess of such number will represent the number of eligible employees that may elect the alternate retirement system for such year.

B. The Board of Trustees shall accept elections to the alternate retirement system on a first come, first served basis until the number of eligible employees that may participate for such year is reached. Any unfilled slots shall rollover to the next year. An eligible employee may only elect the alternate retirement system the year they are initially hired.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-307 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Beginning July 1, 2007, an eligible employee shall have ninety (90) days from such eligible employee's initial date of hire to make a one-time irrevocable written election to participate in the alternate retirement plan or the Teachers' Retirement System of Oklahoma. If an eligible employee fails to make an election within the ninety-day period such eligible employee shall participate in the Teachers' Retirement System of Oklahoma. If an eligible employee makes the election to participate in the alternate retirement plan such eligible employee shall not participate in the Teachers' Retirement System of Oklahoma nor make employee contributions to the Teachers' Retirement System of Oklahoma and the participating entity shall not make employer contributions to the Teachers' Retirement System of Oklahoma. If an eligible employee elects to participate in the alternate retirement plan, but is determined to be ineligible to participate because the number of eligible employees that are able to participate for such year has been reached, the eligible employee shall participate in the Teachers' Retirement System of Oklahoma. If an eligible employee elects to participate in the Teachers' Retirement System of Oklahoma, then the eligible employee shall make employee contributions to the Teachers' Retirement System of Oklahoma and the participating institution shall pay the employer contributions of such eligible employee to the Teachers' Retirement System of Oklahoma for the month that the eligible employee was hired through the month that the election is made and as long as the eligible employee participates in the Teachers' Retirement System of Oklahoma.

B. The amount of the employer contribution and the employee contribution for the alternate retirement plan shall be the same

amount prescribed for contributions to the Teachers' Retirement System of Oklahoma pursuant to Section 108 and Section 108.1 of Title 70 of the Oklahoma Statutes.

C. An eligible employee who elects to participate in the alternate retirement plan shall be ineligible for participation in the Teachers' Retirement System of Oklahoma. Ineligibility to participate in the Teachers' Retirement System of Oklahoma shall continue so long as such eligible employee remains employed by a participating employer. If such eligible employee assumes a different position, which is governed by a state retirement system other than the alternate retirement plan authorized in this act, the eligible employee shall be subject to the retirement system rules applicable to that new position. However, such eligible employee shall not be eligible for service credit in the Teachers' Retirement System of Oklahoma for service performed while participating in an alternate retirement plan.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-308 of Title 70, unless there is created a duplication in numbering, reads as follows:

All eligible employees participating in the alternate retirement plan shall acknowledge in writing that benefits payable pursuant to such alternate retirement plan are not the obligations of the State of Oklahoma or the Teachers' Retirement System of Oklahoma. The alternate retirement plan shall be solely responsible for payment of retirement, death or other benefits earned under the alternate retirement plan and such benefits shall be paid to the participants or their beneficiaries pursuant to the terms of the alternate retirement plan.

SECTION 9. AMENDATORY 70 O.S. 2001, Section 17-102, is amended to read as follows:

Section 17-102. A. A retirement system is hereby established and placed under the management of the Board of Trustees for the

purpose of providing retirement allowances and other benefits under the provisions of this act for teachers of the State of Oklahoma.

B. The Board of Trustees shall have the power and privileges of a corporation and shall be known as the "Board of Trustees of the Teachers' Retirement System of Oklahoma", and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held in trust for the purpose for which received.

C. The Board of Trustees shall administer the alternate retirement plan provided in the Teacher Retirement Fairness and Freedom Act.

SECTION 10. AMENDATORY 70 O.S. 2001, Section 17-103, as last amended by Section 10, Chapter 385, O.S.L. 2004 (70 O.S. Supp. 2005, Section 17-103), is amended to read as follows:

Section 17-103. Except as provided in the Alternate Retirement Plan for Comprehensive Universities Act and the Teacher Retirement Fairness and Freedom Act, the membership of the retirement system shall consist of the following:

(1) All classified personnel shall become members of the retirement system as a condition of their employment;

(2) All full-time nonclassified optional personnel regularly employed for more than one (1) year may join the Teachers' Retirement System subject to the rules and regulations adopted pursuant to this act. Subject to the outcome of a private letter ruling request which shall be submitted by the Board to the Internal Revenue Service, the System shall permit full-time nonclassified optional personnel who have ceased to make otherwise required employee contributions after having made an election to become a member of the retirement system to resume employee contributions. No service shall be credited to any such member for any period of time during which employee contributions were not made;

(3) All persons who shall become classified personnel or who are regularly employed in any school system as new classified personnel after July 1, 1943, hereof, shall become members of the retirement system as a condition of their employment;

(4) All other regular school employees may join the Teachers' Retirement System subject to the rules and regulations as may be adopted by the Board of Trustees of the Teachers' Retirement System;

(5) The Board of Trustees may, in its discretion, deny the right to become members to any class of members whose compensation is only partly paid by the state, or who is serving on a temporary or other than per annum basis, and it also may, in its discretion, make optional with members in any such class their individual entrance into the retirement system; and

(6) Should any member, with less than ten (10) years of teaching service in Oklahoma, in any period of six (6) consecutive years after becoming a member be absent from service more than five (5) years, withdraw his contributions, retire or die, he shall thereupon cease to be a member. The provisions of this paragraph shall not apply to any member of the Teachers' Retirement System who has been a member of such classes of military services as may be approved by the Board of Trustees, until a period of one and one-half (1 1/2) years from date of termination of such service shall have elapsed.

SECTION 11. This act shall become effective November 1, 2006.

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