

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 536

By: Bass

AS INTRODUCED

An Act relating to retirement; amending 74 O.S. 2001, Sections 914, as amended by Section 6, Chapter 486, O.S.L. 2003 and 917, as last amended by Section 25, Chapter 536, O.S.L. 2004 (74 O.S. Supp. 2004, Sections 914 and 917), which relate to the Oklahoma Public Employees Retirement System; limiting reemployment with covered employers for certain retired members; providing for election to participate in the Oklahoma Public Employees Retirement System Deferred Retirement Option Plan (DROP); excepting from participation certain members; clarifying term; limiting duration of participation; providing procedures; providing for termination upon completion of DROP; allowing certain in-service distributions; providing for treatment of certain contributions; providing certain payments to DROP account; allowing certain cost-of-living adjustments; providing interest on DROP account; providing options; providing for treatment of certain payments; establishing implementation conditions and dates; modifying vested benefit provisions; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 914, as amended by Section 6, Chapter 486, O.S.L. 2003 (74 O.S. Supp. 2004, Section 914), is amended to read as follows:

Section 914. A. The normal retirement date for a member of the System shall be as defined in Section 902 of this title, provided members employed on or after January 1, 1983, shall have six (6) or more years of full-time-equivalent employment with a participating employer before receiving any retirement benefits or if the member is a legislative session employee of the Legislature, shall have three (3) or more years of full-time-equivalent employment with a participating employer before receiving any retirement benefits. In no event shall a normal retirement date for a member be before six

(6) months after the entry date of the participating employer by whom he or she is employed.

B. A member may be employed beyond the normal retirement date by the appointing authority of the participating employer. However, the member may not receive retirement pay so long as he continues employment under this act. Any member who has terminated employment with a participating employer prior to the month immediately preceding said member's normal retirement date must elect a vested benefit pursuant to Section 917 of this title before receiving any retirement benefits.

C. Notice for retirement shall be filed through the retirement coordinator for the participating employer in such form and manner as the Board shall prescribe; provided, that such notice for retirement shall be filed with the office of the retirement system at least sixty (60) days prior to the date selected for the member's retirement; provided further, that the Board may waive the aforesaid sixty-day notice at its discretion.

D. No retirement benefits shall be payable to any member until the first day of the month following the termination of the member's employment with any participating employer. The type of retirement benefit selected by a member may not be changed on or after the effective date of the member's retirement. Receipt of workers' compensation benefits shall in no respect disqualify retirant for benefits.

E. If a retirant should be elected or appointed to any position or office for which compensation for service is paid from levies or taxes imposed by the state or any political subdivision thereof, the retirant shall not receive any retirement benefit for any month for which the retirant serves in such position or office after the retirant has received compensation in a sum equal to the amount allowable as wages or earnings by the Social Security Administration in any calendar year; provided, this subsection shall not apply to

service rendered by a retirant as a juror, as a witness in any legal proceeding or action, as an election board judge or clerk, or in any other office or position of a similar nature, or to an employer that is not a participating employer. Provided, further, that any participating employer who is employing such a retirant shall make proper written notification to the System informing it of the beginning date of such retirant's employment and the date such retirant reaches the maximum compensation allowed by this section in the calendar year; and provided, also, that any retirant returning to work for a participating employer shall make contributions to the System and the employer shall do likewise. All retirants who have returned to employment and participation in the System following retirement shall have post-retirement benefits calculated on one of the following methods:

1. All service accumulated from date of reemployment shall be computed based on the benefit formula applicable at that time and the additional benefits shall be added to the previous benefits. Such additional benefits shall be calculated each year based upon additional service accrued from July 1 to June 30 of the previous year and the additional benefit, if any, will be added to the retirant's monthly benefit beginning January 1, 2000, and each January 1 thereafter; however, the post-retirement service credit shall be cumulative, beginning with service credit accrued after the date of retirement, provided that the retirant has not received a distribution of the post-retirement contributions;

2. Any retirant who returns to employment with a participating employer may elect not to receive any retirement benefits while so reemployed. If such an election is made and reemployment is for a minimum period of thirty-six (36) consecutive months, all service accumulated from date of reemployment shall be participating service. For purposes of determining the retirement benefits of such a member upon the termination of such reemployment all

creditable service of the member shall be computed based on the benefit formula applicable at the time of termination of such reemployment. Provided, a retirant who became reemployed prior to July 1, 1982, and who is reemployed for a minimum of thirty-six (36) consecutive months shall have all the creditable service of such retirant computed based on the benefit formula applicable at the time of termination of such reemployment if the retirant elects not to receive retirement benefits prior to such termination of reemployment. A retirant who has waived receipt of the monthly benefit, but is not reemployed for the full thirty-six (36) consecutive months, shall upon termination of such reemployment have only the additional amount added to his or her benefit as if they had not waived the benefit as provided in paragraph 1 of this subsection-;

3. All post-retirement additional benefits shall be calculated using actual hours worked as well as the actual compensation received and upon which contributions are paid. Post-retirement service is not subject to the partial year round-up provisions of subsection C of Section 913 of this title-;

4. A retired member who returns to work for a participating employer pursuant to this section shall be bound by the election made pursuant to paragraph (2) of subsection A of Section 915 of this title if the member had made such election prior to retirement. If the member had not made such election prior to retirement, the member may do so during the member's reemployment with a participating employer pursuant to this section;

5. A retired member of the System who participated in the Oklahoma Public Employees Retirement System Deferred Retirement Option Plan may not subsequently be employed in a covered position.

F. Any member may elect to retire before his or her normal retirement date on the first day of any month coinciding with or following the attainment of age fifty-five (55), provided such

member has completed ten (10) years of participating service, but in no event before six (6) months after the entry date. Any member who shall retire before the normal retirement date shall receive an annual retirement benefit adjusted in accordance with the following percentage schedule:

Age	Percentage of Normal Retirement Benefit
62	100.00%
61	93.33%
60	86.67%
59	80.00%
58	73.33%
57	66.67%
56	63.33%
55	60.00%

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 915.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. In lieu of terminating employment and accepting a service retirement pension a member, other than an elected official, participating in the Oklahoma Public Employees Retirement System who is eligible to receive a service retirement pension may elect to participate in the Oklahoma Public Employees Retirement System Deferred Retirement Option Plan and defer the receipts of benefits in accordance with the provisions of this section.

B. For purposes of this section, participating service shall include credited service as defined in Section 902 of Title 74 of the Oklahoma Statutes.

C. The duration of participation in the Oklahoma Public Employees Retirement System Deferred Retirement Option Plan for a member shall not exceed five (5) years. Participation in the Oklahoma Public Employees Retirement System Deferred Retirement

Option Plan must begin the first day of a month and end on the last day of the month. At the conclusion of a member's participation in the Oklahoma Public Employees System Deferred Retirement Option Plan, the member shall terminate employment as a member of the Oklahoma Public Employees Retirement System, and shall start receiving the member's accrued monthly retirement benefit from the System. Such a member may continue to receive in-service distributions of such member's accrued monthly retirement benefit from the System if the member is reemployed by a state agency only if such reemployment is in a position not covered under the System.

D. When a member begins participation in the Oklahoma Public Employees Retirement System Deferred Retirement Option Plan, the contribution of the member shall cease. One-half (1/2) of the employer contributions shall continue to be paid in accordance with Sections 920 and 920A of Title 74 of the Oklahoma Statutes. Employer contributions for members who elect the Oklahoma Public Employees Deferred Retirement Option Plan shall be credited equally to the member's Oklahoma Public Employees Retirement System Deferred Retirement Option Plan account and the Oklahoma Public Employees Retirement System. The monthly retirement benefits that would have been payable had the member elected to cease employment and receive a service retirement shall be paid into the member's Oklahoma Public Employees Retirement System Deferred Retirement Option Plan account.

E. 1. A member who participates in this plan shall be eligible to receive cost-of-living increases.

2. A member who participates in this plan shall earn interest at a rate of one-half a percentage point below the rate of return of the investment portfolio of the System, but no less than zero (0). The interest shall be credited to the individual account balance of the member on an annual basis.

F. A member in the Oklahoma Public Employees Retirement System Deferred Retirement Option Plan shall receive, at the option of the member:

1. A lump-sum payment from the account equal to the option account balance of the member, payable to the member;

2. A lump-sum payment from the account equal to the option account balance of the member, payable to the annuity provider which shall be selected by the member as a result of the research and investigation of the member; or

3. Any other method of payment if approved by the Board.

If a member is eligible to receive or is receiving a disability retirement benefit from the System, the payment from the account shall be a disability payment.

G. If the member dies during the period of participation in the Oklahoma Public Employees Retirement System Deferred Retirement Option Plan, a lump-sum payment equal to the account balance of the member with interest shall be paid to the member's designated beneficiary or if there is no designated beneficiary or the designated beneficiary predeceases the member, to the estate of the member. If such member was receiving, or eligible to receive, a disability pension from the System at the time of death, payment of the account balance shall be a disability payment.

H. The provisions in Sections 1 and 2 of this act shall not be implemented until January 1, 2006, or when the Board of Trustees of the Oklahoma Public Employees Retirement System obtains a favorable ruling from the Internal Revenue Service which affirmatively states that the Oklahoma Public Employees Retirement System Deferred Retirement Option Plan shall be treated as a qualified plan for federal income tax purposes, whichever comes last.

SECTION 3. AMENDATORY 74 O.S. 2001, Section 917, as last amended by Section 25, Chapter 536, O.S.L. 2004 (74 O.S. Supp. 2004, Section 917), is amended to read as follows:

Section 917. (1) Upon termination of employment with a participating employer, not followed by employment with such participating employer, or another participating employer, within four (4) calendar months, the member shall be paid an amount equal to the ~~amount of money he or she has paid into the System upon the filing of the proper application with the System.~~ following:

<u>Years of Participating Service</u>	<u>Amount</u>
<u>3 years</u>	<u>Employee contributions + 7.5% interest</u>
<u>5 years</u>	<u>Employee contributions + 7.5% interest</u> <u>+ 25% of the</u> <u>Employer contributions + 7.5% interest</u>
<u>6 years</u>	<u>Employee contributions + 7.5% interest</u> <u>+ 50% of the</u> <u>Employer contributions + 7.5% interest</u>
<u>7 years</u>	<u>Employee contributions + 7.5% interest</u> <u>+ 75% of the</u> <u>Employer contributions + 7.5% interest</u>
<u>8 or more years</u>	<u>Employee contributions + 7.5% interest</u> <u>+</u> <u>Employer contributions + 7.5% interest</u>

Payment of these accumulated contributions and interest may be made in less than four (4) calendar months only in the event that a member is not eligible to elect a vested benefit pursuant to this section and said member is terminally ill, as evidenced by a physician's certification that the member is not expected to live beyond four (4) months.

(2) If such member has completed eight (8) years of credited service at date of termination or if the member is a legislative session employee of the Legislature or if the employee is a session employee employed by the Legislative Service Bureau, four (4) years of credited service at date of termination, he may elect a vested benefit in lieu of receiving ~~his~~ applicable accumulated

contributions and interest. The amount of the vested benefit shall commence at the normal retirement date and shall be paid monthly during the lifetime of the retirant with the last payment made on the last day of the month in which death occurs.

(3) Upon death before the normal or early retirement date of a member who has elected a vested benefit, ~~his accumulated contributions~~ the amount in subsection (1) of this section, shall be paid to his beneficiary unless the spouse of the deceased member elects monthly benefits as provided for in Section 918 of this title.

(4) Upon death after the normal or early retirement date of a retirant who elected a vested benefit without an option, the excess, if any, of ~~his accumulated contributions~~ the amount in subsection (1) of this section, over the sum of all payments of the vested benefit made to date of death shall be paid to his beneficiary.

(5) If a former employee, who meets the eligibility requirements for membership, returns to employment after the expiration of four (4) calendar months following the termination of his employment and the employee has withdrawn ~~his~~ the applicable accumulated contributions and interest as provided in subsection (1) of this section, he may pay to the System the sum of ~~the~~ such accumulated contributions and interest he has withdrawn plus interest of not to exceed ten percent (10%), as determined by the Board, and shall receive the same benefits as if he had never ~~withdrawn his contributions~~ made such withdrawal. No member shall be permitted to take advantage of the payback for restoration of creditable service more than one time. If a member, who has elected a vested benefit, or a reemployed member, who has not withdrawn ~~the member's~~ accumulated contributions and interest, again becomes an employee of a participating employer, the period of absence shall not be counted as a break in service; however, the period of absence shall not be credited.

(6) Prior to January 1, 1991, members, who at the time of employment were ineligible for membership into the System due to their age, shall receive benefits for the period of ineligibility if the employer and employee contributions are paid the System for that ineligible period. No interest shall be paid on a payback of this type. However, effective January 1, 1991, to receive benefits, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

(7) When any error in calculation or participation coverage to a prior or current employee exists, it shall be the responsibility of the participating employer which made the error to pay the amount determined by the Board pursuant to Section 913.5 of this title. This obligation of the participating employer to pay the amount due pursuant to this section shall be considered a current obligation of the employer until the amount is paid in full, regardless of the dates of the periods of service.

(8) Upon application to the Board and payment as determined by the Board, a member of the System may receive service credit for those years of service that the member was eligible to receive service credit from the Teachers' Retirement System of Oklahoma. To receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

(9) Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the estate of the member or to the member's beneficiary if there is no estate. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

(10) Subject to the provisions of Sections 918 and 918.1 of this title, if there are two or more beneficiaries designated by the member, upon the member's death, the System shall pay any applicable benefits to any of the beneficiaries that have completed all

required paperwork regardless of whether or not all beneficiaries have completed such paperwork.

SECTION 4. This act shall become effective November 1, 2005.

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