

THE HOUSE OF REPRESENTATIVES  
December 10, 2007

House Bill No. 5001

HOUSE BILL NO. 5001 - By: Hickman of the House and Laster of the Senate.

An Act relating to the Oklahoma Public Employees Retirement System; amending 74 O.S. 2001, Section 902, as last amended by Section 134, Chapter 1, O.S.L. 2005 (74 O.S. Supp. 2007, Section 902), which relates to definitions; modifying definitions; providing an effective date; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 74 O.S. 2001, Section 902, as last amended by  
2 Section 134, Chapter 1, O.S.L. 2005 (74 O.S. Supp. 2007, Section 902), is amended to  
3 read as follows:

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

5 (1) "System" means the Oklahoma Public Employees Retirement System as  
6 established by this act and as it may ~~hereafter~~ be amended subsequent to the effective  
7 date of this act;

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

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

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

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

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

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

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

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

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

20 For compensation for service on or after January 1, 1988, through June  
21 30, 1994, the maximum compensation level shall be Forty Thousand  
22 Dollars (\$40,000.00) per annum.

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

13 (b) Compensation for retirement purposes shall include any amount of  
14 elective salary reduction under Section 457 of the Internal Revenue  
15 Code of 1986 and any amount of non-elective salary reduction under  
16 Section 414(h) of the Internal Revenue Code of 1986.

17 (c) Notwithstanding any provision to the contrary, the compensation  
18 taken into account for any employee in determining the contribution or  
19 benefit accruals for any plan year is limited to the annual  
20 compensation limit under Section 401(a)(17) of the federal Internal  
21 Revenue Code.

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

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

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

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

19 (13) "Eligible employer" means the state and any county, county hospital, city or  
20 town, conservation districts, circuit engineering districts and any public or private trust  
21 in which a county, city or town participates and is the primary beneficiary is to be an  
22 eligible employer for the purpose of this act only, whose employees are covered by Social

1 Security and are not covered by or eligible for another retirement plan authorized under  
2 the laws of this state which is in operation on the initial entry date. Emergency medical  
3 service districts may join the System upon proper application to the Board. Provided  
4 affiliation by a county hospital shall be in the form of a resolution adopted by the board of  
5 control.

6 (a) If a class or several classes of employees of any above-defined  
7 employers are covered by Social Security and are not covered by or  
8 eligible for and will not become eligible for another retirement plan  
9 authorized under the laws of this state, which is in operation on the  
10 effective date, such employer shall be deemed an eligible employer, but  
11 only with respect to that class or those classes of employees as defined  
12 in this section.

13 (b) A class or several classes of employees who are covered by Social  
14 Security and are not covered by or eligible for and will not become  
15 eligible for another retirement plan authorized under the laws of this  
16 state, which is in operation on the effective date, and when the  
17 qualifications for employment in such class or classes are set by state  
18 law; and when such class or classes of employees are employed by a  
19 county or municipal government pursuant to such qualifications; and  
20 when the services provided by such employees are of such nature that  
21 they qualify for matching by or contributions from state or federal  
22 funds administered by an agency of state government which qualifies

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~~Strike thru~~ language denotes deletion from present Statutes.

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

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

21 (d) A participating employer of the Teachers' Retirement System of  
22 Oklahoma, who has one or more employees who have made an election

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

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

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

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

18           (c) It shall be mandatory for an officer, appointee or employee of the office  
19   of district attorney to become a member of this System if he or she is  
20   not currently participating in a county retirement system. Provided  
21   further, that if an officer, appointee or employee of the office of district  
22   attorney is currently participating in such county retirement system,

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1 he or she is ineligible for this System as long as he or she is eligible for  
2 such county retirement system. Any eligible officer, appointee or  
3 employee of the office of district attorney shall be given credit for prior  
4 service as defined in this section. The provisions outlined in Section  
5 917 of this title shall apply to those employees who have previously  
6 withdrawn their contributions.

7 (d) Eligibility shall also not include any officer or employee of the  
8 Oklahoma Employment Security Commission, except for those officers  
9 and employees of the Commission electing to transfer to this System  
10 pursuant to the provisions of Section 910.1 of this title or any other  
11 class of officers or employees specifically exempted by the laws of this  
12 state, unless there be a consolidation as provided by Section 912 of this  
13 title. Employees of the Oklahoma Employment Security Commission  
14 who are ineligible for enrollment in the Employment Security  
15 Commission Retirement Plan, that was in effect on January 1, 1964,  
16 shall become members of this System.

17 (e) Any employee employed by the Legislative Service Bureau, State  
18 Senate or House of Representatives for the full duration of a regular  
19 legislative session shall be eligible for membership in the System  
20 regardless of classification as a temporary employee and may  
21 participate in the System during the regular legislative session at the  
22 option of the employee. For purposes of this subparagraph, the

1 determination of whether an employee is employed for the full  
2 duration of a regular legislative session shall be made by the  
3 Legislative Service Bureau if such employee is employed by the  
4 Legislative Service Bureau, the State Senate if such employee is  
5 employed by the State Senate, or by the House of Representatives if  
6 such employee is employed by the House of Representatives. Each  
7 regular legislative session during which the legislative employee or an  
8 employee of the Legislative Service Bureau participates full time shall  
9 be counted as six (6) months of full-time participating service.

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

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

21 (iii) Notwithstanding the provisions of division (i) of this  
22 subparagraph, a temporary legislative session employee who

1 elected to become a member of the System may withdraw from  
2 the System effective the day said employee elected to participate  
3 in the System upon written request to the Board. Any such  
4 request must be received by the Board prior to October 1, 1990.  
5 All employee contributions made by the temporary legislative  
6 session employee shall be returned to the employee without  
7 interest within four (4) months of receipt of the written request.

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

- 14 a. the member files an election with the System not later  
15 than December 31, 2000, to purchase the prior service;  
16 and
- 17 b. the member makes payment to the System of the  
18 actuarial cost of the service credit pursuant to subsection  
19 A of Section 913.5 of this title. The provisions of Section  
20 913.5 of this title shall be applicable to the purchase of  
21 the service credit, including the provisions for  
22 determining service credit in the event of incomplete

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

4 (15) "Entry date" means the date on which an eligible employer joins the System.

5 The first entry date pursuant to Section 901 et seq. of this title shall be January 1, 1964;

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

8 (17) "Federal Internal Revenue Code" means the federal Internal Revenue Code of  
9 1954 or 1986, as amended and as applicable to a governmental plan as in effect on July 1,  
10 1999;

11 (18) "Final average compensation" means the average annual compensation,  
12 including amounts deferred under deferred compensation agreements entered into  
13 between a member and a participating employer, up to, but not exceeding the maximum  
14 compensation levels as provided in paragraph (9) of this section received during the  
15 highest three (3) of the last ten (10) years of participating service immediately preceding  
16 retirement or termination of employment. Provided, no member shall retire with a final  
17 average compensation unless the member has made the required contributions on such  
18 compensation, as defined by the Board of Trustees;

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

1 (20) “Fund” means the Oklahoma Public Employees Retirement Fund as created by  
2 Section 901 et seq. of this title;

3 (21) “Leave of absence” means a period of absence from employment without pay,  
4 authorized and approved by the employer and acknowledged to the Board, and which  
5 after the effective date does not exceed two (2) years;

6 (22) “Member” means an eligible employee or elected official who is in the System  
7 and is making the required employee or elected official contributions, or any former  
8 employee or elected official who shall have made the required contributions to the  
9 System and shall have not received a refund or withdrawal;

10 (23) “Military service” means service in the Armed Forces of the United States by  
11 an honorably discharged person during the following time periods, as reflected on such  
12 person’s Defense Department Form 214, not to exceed five (5) years for combined  
13 participating and/or prior service, as follows:

14 (a) during the following periods, including the beginning and ending  
15 dates, and only for the periods served, from:

16 (i) April 6, 1917, to November 11, 1918, commonly referred to as  
17 World War I,

18 (ii) September 16, 1940, to December 7, 1941, as a member of the  
19 45th Division,

20 (iii) December 7, 1941, to December 31, 1946, commonly referred to  
21 as World War II,

- 1 (iv) June 27, 1950, to January 31, 1955, commonly referred to as the  
2 Korean Conflict or the Korean War,
- 3 (v) February 28, 1961, to May 7, 1975, commonly referred to as the  
4 Vietnam era, except that:
- 5 a. for the period from February 28, 1961, to August 4, 1964,  
6 military service shall only include service in the Republic  
7 of Vietnam during that period, and
- 8 b. for purposes of determining eligibility for education and  
9 training benefits, such period shall end on December 31,  
10 1976, or
- 11 (vi) August 1, 1990, to December 31, 1991, commonly referred to as  
12 the Gulf War, the Persian Gulf War, or Operation Desert Storm,  
13 but excluding any person who served on active duty for training  
14 only, unless discharged from such active duty for a service-  
15 connected disability;
- 16 (b) during a period of war or combat military operation other than a  
17 conflict, war or era listed in subparagraph (a) of this paragraph,  
18 beginning on the date of Congressional authorization, Congressional  
19 resolution, or Executive Order of the President of the United States,  
20 for the use of the Armed Forces of the United States in a war or  
21 combat military operation, if such war or combat military operation  
22 lasted for a period of ninety (90) days or more, for a person who served,

1 and only for the period served, in the area of responsibility of the war  
2 or combat military operation, but excluding a person who served on  
3 active duty for training only, unless discharged from such active duty  
4 for a service-connected disability, and provided that the burden of  
5 proof of military service during this period shall be with the member,  
6 who must present appropriate documentation establishing such  
7 service.

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

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

19 (a) the first day of the month coinciding with or following a member's  
20 sixty-second birthday,

21 (b) for any person who initially became a member prior to July 1, 1992,  
22 the first day of the month coinciding with or following the date at

1 which the sum of a member's age and number of years of credited  
2 service total eighty (80); such a normal retirement date will also apply  
3 to any person who became a member of the sending system as defined  
4 in Section 901 et seq. of this title, prior to July 1, 1992, regardless of  
5 whether there were breaks in service after July 1, 1992,

6 (c) for any person who became a member after June 30, 1992, the first day  
7 of the month coinciding with or following the date at which the sum of  
8 a member's age and number of years of credited service total ninety  
9 (90),

10 (d) in addition to subparagraphs (a), (b) and (c) of this paragraph, the first  
11 day of the month coinciding with or following a member's completion of  
12 at least twenty (20) years of full-time-equivalent employment as:

13 (i) a correctional or probation and parole officer with the  
14 Department of Corrections and at the time of retirement, the  
15 member was a correctional or probation and parole officer with  
16 the Department of Corrections, or

17 (ii) a correctional officer, probation and parole officer or fugitive  
18 apprehension agent with the Department of Corrections who is  
19 in such position on June 30, 2004, or who is hired after June 30,  
20 2004, and who receives a promotion or change in job  
21 classification after June 30, 2004, to another position in the  
22 Department of Corrections, so long as such officer or agent has

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

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

16 (e) for those fugitive apprehension agents who retire on or after July 1,  
17 2002, the first day of the month coinciding with or following a  
18 member's completion of at least twenty (20) years of full-time-  
19 equivalent employment as a fugitive apprehension agent with the  
20 Department of Corrections and at the time of retirement, the member  
21 was a fugitive apprehension agent with the Department of Corrections,  
22 or

1 (f) for any member who was continuously employed by an entity or  
2 institution within The Oklahoma State System of Higher Education  
3 and whose initial employment with such entity or institution was prior  
4 to July 1, 1992, and who without a break in service of more than thirty  
5 (30) days became employed by an employer participating in the  
6 Oklahoma Public Employees Retirement System, the first day of the  
7 month coinciding with or following the date at which the sum of the  
8 member's age and number of years of credited service total eighty (80);

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

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

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

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

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

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

4 (31) "Social Security" means the old-age survivors and disability section of the  
5 Federal Social Security Act;

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

8 (33) "Service-connected disability benefits" means military service benefits which  
9 are for a service-connected disability rated at twenty percent (20%) or more by the  
10 Veterans Administration or the Armed Forces of the United States;

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

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

16 (36) "Limitation year" means the year used in applying the limitations of Section  
17 415 of the Internal Revenue Code of 1986, which year shall be the calendar year.

18 SECTION 2. This act shall become effective July 1, 2008.

19 SECTION 3. It being immediately necessary for the preservation of the public  
20 peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and be in full force from and  
2 after its passage and approval.

3 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND  
4 FINANCIAL SERVICES, dated 12/07/07 - DO PASS, As Coauthored.