

EHB 2074

CORRECTED
THE STATE SENATE
Monday, April 7, 2008

ENGROSSED

House Bill No. 2074

As Amended

ENGROSSED HOUSE BILL NO. 2074 - By: Sears, Cannaday, Martin (Steve) and Banz of the House and Brown of the Senate.

[Teachers' Retirement System of Oklahoma - 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 4, Chapter 315, O.S.L. 2004 (70 O.S. Supp. 2006, 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

1 pre-retirement employment" shall mean the last day the employee is
2 required to be physically present on the job to complete the terms
3 of the employment contract or agreement. Employment under any
4 conditions during this time, volunteer services for the purpose of
5 obtaining a paid position at a later date, or payment at a later
6 time for services performed during this time period shall cause the
7 forfeiture of all retirement benefits received during the period;

8 2. Unless otherwise provided in paragraph 3 of this subsection,
9 earnings from the public schools may not exceed one-half (1/2) of
10 the member's final average salary used in computing retirement
11 benefits, or the Earnings Limitation for employees allowed by the
12 Social Security Administration, whichever is less. For retired
13 members under the age of sixty-two (62) years, the limit on allowed
14 earnings from the public schools of Oklahoma for employment for the
15 performance of duties ordinarily performed by classified or
16 nonclassified personnel shall be the lesser of Fifteen Thousand
17 Dollars (\$15,000.00) or one-half (1/2) of the member's final average
18 salary used in computing retirement benefits unless the earnings
19 limitation allowed by the Social Security Administration would be
20 greater than Fifteen Thousand Dollars (\$15,000.00). For retired
21 members sixty-two (62) years of age or older the limit on allowed
22 earnings from the public schools of Oklahoma for the performance of
23 duties ordinarily performed by classified or nonclassified personnel

1 shall be the lesser of Thirty Thousand Dollars (\$30,000.00) or one-
2 half (1/2) of the member's final average salary used in computing
3 retirement benefits. For purposes of this paragraph, the following
4 shall apply:

- 5 a. earnings shall mean "regular annual compensation" as
6 defined in paragraph (25) of Section 17-101 of this
7 title, and shall include any payment by a public
8 school for services rendered by a retired member who
9 is employed for any purpose whatsoever. Supplemental
10 retirement payments paid by a former public school
11 employer pursuant to subsection 9 of Section 17-105 of
12 this title or other state law shall not be considered
13 as earnings,
- 14 b. the Earnings Limitation for employees allowed by the
15 Social Security Administration to workers between the
16 age of sixty-two (62) years and sixty-five (65) years
17 shall apply to retired members below the age of sixty-
18 two (62) years,
- 19 c. the limit on allowed earnings from the public schools
20 shall be automatically adjusted effective the first
21 day of January of each year to reflect the current
22 Earnings Limitation for employees as determined from
23 time to time by the Social Security Administration,

- 1 d. earnings in excess of the maximum limit on allowed
2 earnings from public schools of Oklahoma shall result
3 in a loss of future retirement benefits for the year
4 the post-retirement employment was performed of One
5 Dollar (\$1.00) for each One Dollar (\$1.00) earned over
6 the maximum allowed earnings amount,
- 7 e. for those members age seventy (70) years and over, the
8 earnings in excess of the maximum limit allowed
9 earnings from public schools of Oklahoma shall be one-
10 half (1/2) the member's final average salary used in
11 computing retirement benefits. However, any retired
12 member receiving benefits from the Retirement System
13 who reached age seventy (70) years prior to July 1,
14 1991, shall not be restricted by the earnings limits
15 pursuant to this subparagraph until January 1, 1994.
16 To qualify for the provisions of this subparagraph,
17 the member must be employed less than one-half (1/2)
18 time compared to other full-time employees in similar
19 positions;

20 3. Notwithstanding paragraph 2 of this subsection, a retired
21 classified or nonclassified member who has been retired for thirty-
22 six (36) or more months and who is employed by a public school to
23 perform duties ordinarily performed by classified or nonclassified

1 personnel shall be able to receive annualized earnings from the
2 public school ~~not to exceed Thirty Thousand Dollars (\$30,000.00)~~
3 with no reduction in retirement benefits regardless of the amount of
4 annualized earnings; and

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

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

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

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

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

6 **SECTION 2. AMENDATORY 70 O.S. 2001, Section 17-101, as**
 7 **last amended by Section 3, Chapter 46, 2nd Extraordinary Session,**
 8 **O.S.L. 2006 (70 O.S. Supp. 2007, Section 17-101), is amended to read**
 9 **as follows:**

10 **Section 17-101. The following words and phrases as used in this**
 11 **act, unless a different meaning is clearly required by the context,**
 12 **shall have the following meanings:**

13 **(1) "Retirement system" shall mean the Teachers' Retirement**
 14 **System of Oklahoma, as defined in Section 17-102 of this title.**

15 **(2) "Public school" shall mean a school district, a state**
 16 **college or university, the State Board of Education, the State Board**
 17 **of Career and Technology Education and any other state educational**
 18 **entity conducted within the state supported wholly or partly by**
 19 **public funds and operating under the authority and supervision of a**
 20 **legally constituted board or agency having authority and**
 21 **responsibility for any function of public education. "Public**
 22 **school" shall also mean a tuition free, non-profit alternative**
 23 **school of choice that provides education, therapeutic counseling and**

1 outreach programs which is aligned with a school district and which
2 receives grant funds from governmental sources.

3 (3) "Classified personnel" shall mean any teacher, principal,
4 superintendent, supervisor, administrator, librarian, certified or
5 registered nurse, college professor, or college president whose
6 salary is paid wholly or in part from public funds. An employee of
7 any state department, board, board of regents or board of trustees,
8 who is in a supervisory or an administrative position, the function
9 of which is primarily devoted to public education, shall be
10 considered classified personnel under the meaning of this act, at
11 the discretion of the Board of Trustees of the Teachers' Retirement
12 System. The term "teacher" shall also include instructors and
13 counselors employed by the Department of Corrections and holding
14 valid teaching certificates issued by the State Department of
15 Education. Provided, that a person employed by the Department of
16 Corrections as an instructor or counselor shall have been actively
17 engaged in the teaching profession for a period of not less than
18 three (3) years prior to employment to be eligible to participate in
19 the Oklahoma Teachers' Retirement System. The Department of
20 Corrections shall contribute the employer's share to the Oklahoma
21 Teachers' Retirement System.

22 (4) "Nonclassified optional personnel" shall include cooks,
23 janitors, maintenance personnel not in a supervisory capacity, bus

1 drivers, noncertified or nonregistered nurses, noncertified
2 librarians, and clerical employees of the public schools, state
3 colleges, universities or any state department, board, board of
4 regents or board of trustees, the functions of which are primarily
5 devoted to public education and whose salaries are paid wholly or in
6 part from public funds.

7 (5) "Employer" shall mean the state and any of its designated
8 agents or agencies with responsibility and authority for public
9 education, such as boards of education of elementary and independent
10 school districts, boards of regents, boards of control or any other
11 agency of and within the state by which a person may be employed for
12 service in public education. "Employer" shall also mean the board
13 of directors of a tuition free, non-profit alternative school of
14 choice that provides education, therapeutic counseling and outreach
15 programs which is aligned with a school district and which receives
16 grant funds from governmental sources.

17 (6) "Member" shall mean any teacher or other employee included
18 in the membership of the system as provided in Section 17-103 of
19 this title.

20 (7) "Board of Trustees" shall mean the board provided for in
21 Section 17-106 of this title to administer the retirement system.

1 (8) "Service" shall mean service as a classified or
2 nonclassified optional employee in the public school system, or any
3 other service devoted primarily to public education in the state.

4 (9) "Prior service" shall mean service rendered prior to July
5 1, 1943.

6 (10) "Membership service" shall mean service as a member of the
7 classified or nonclassified personnel as defined in paragraphs (3)
8 and (4) of this section.

9 (11) "Creditable service" shall mean membership service plus
10 any prior service authorized under this title.

11 (12) "Annuitant" shall mean any person in receipt of a
12 retirement allowance as provided in this title.

13 (13) "Accumulated contributions" shall mean the sum of all
14 amounts deducted from the compensation of a member and credited to
15 his individual account in the Teacher Savings Fund, together with
16 interest as of June 30, 1968.

17 (14) "Earnable compensation" shall mean the full rate of the
18 compensation that would be payable to a member if he worked the full
19 normal working time.

20 (15) "Average salary":

21 (a) for those members who joined the System prior to July
22 1, 1992, shall mean the average of the salaries for
23 the three (3) years on which the highest contributions

1 to the Teachers' Retirement System was paid not to
2 exceed the maximum contribution level specified in
3 Section 17-116.2 of this title or the maximum
4 compensation level specified in subsection (28) of
5 this section. Provided, no member shall retire with
6 an average salary in excess of Twenty-five Thousand
7 Dollars (\$25,000.00) unless the member has made the
8 required election and paid the required contributions
9 on such salary in excess of Twenty-five Thousand
10 Dollars (\$25,000.00), or unless an eligible member
11 fulfills the requirements of Section 2 of this act in
12 order to have pre-cap removal service included in the
13 retirement benefit computation of the member using the
14 regular annual compensation of the member for any pre-
15 cap removal year of service so included subject to the
16 maximum average salary amount, and

17 (b) for those members who join the System after June 30,
18 1992, shall mean the average of the salaries for five
19 (5) consecutive years on which the highest
20 contribution to the Teachers' Retirement System was
21 paid. Only salary on which required contributions
22 have been made may be used in computing average
23 salary.

1 (16) "Annuity" shall mean payments for life derived from the
2 "accumulated contributions" of a member. All annuities shall be
3 payable in equal monthly installments.

4 (17) "Pension" shall mean payments for life derived from money
5 provided by the employer. All pensions shall be payable in equal
6 monthly installments.

7 (18) "Monthly retirement allowance" is one-twelfth (1/12) of
8 the annual retirement allowance which shall be payable monthly.

9 (19) "Retirement Benefit Fund" shall mean the fund from which
10 all retirement benefits shall be paid based on such mortality tables
11 as shall be adopted by the Board of Trustees.

12 (20) "Actuary" shall mean a person especially skilled through
13 training and experience in financial calculation respecting the
14 expectancy and duration of life.

15 (21) "Actuarial equivalent" shall mean a benefit of equal value
16 when computed upon the basis of such mortality and other tables as
17 shall be adopted by the Board of Trustees.

18 (22) The masculine pronoun, whenever used, shall include the
19 feminine.

20 (23) "Actuarially determined cost" shall mean the single sum
21 which is actuarially equivalent in value to a specified pension
22 amount as determined on the basis of mortality and interest
23 assumptions adopted by the Board of Trustees.

1 (24) "Normal retirement age" means age sixty-two (62) or the
2 age at which the sum of a member's age and number of years of
3 creditable service total eighty (80) or ninety (90), for those who
4 became a member after June 30, 1992, pursuant to Section 17-105 of
5 this title, whichever occurs first.

6 (25) "Regular annual compensation" means salary plus fringe
7 benefits, excluding the flexible benefit allowance pursuant to
8 Section 26-105 of this title and for purposes pursuant to Section
9 17-101 et seq. of this title. For purposes of this definition,
10 regular annual compensation shall include all payments as provided
11 in subsection D of Section 17-116.2 of this title.

12 (26) "Teacher" means classified personnel and nonclassified
13 optional personnel.

14 (27) "Active classroom teacher" means a person employed by a
15 school district to teach students specifically identified classes
16 for specifically identified subjects during the course of a
17 semester, and who holds a valid certificate or license issued by and
18 in accordance with the rules and regulations of the State Board of
19 Education.

20 (28) "Maximum compensation level" shall, except as otherwise
21 authorized pursuant to the provisions of Section 2 of this act,
22 mean:

- 1 (a) Twenty-five Thousand Dollars (\$25,000.00) for
2 creditable service authorized and performed prior to
3 July 1, 1995, for members not electing a higher
4 maximum compensation level,
- 5 (b) Forty Thousand Dollars (\$40,000.00) for creditable
6 service authorized and performed prior to July 1,
7 1995, for members electing a maximum compensation
8 level in excess of Twenty-five Thousand Dollars
9 (\$25,000.00),
- 10 (c) Twenty-seven Thousand Five Hundred Dollars
11 (\$27,500.00) for members who, as of June 30, 1995, had
12 elected to have a maximum compensation level not in
13 excess of Twenty-five Thousand Dollars (\$25,000.00),
14 and who were employed by an entity or institution
15 within The Oklahoma State System of Higher Education
16 for creditable service authorized and performed on or
17 after July 1, 1995, but not later than June 30, 1996,
18 if such member does not elect a higher maximum
19 compensation level for this period as authorized by
20 Section 17-116.2A of this title,
- 21 (d) Thirty-two Thousand Five Hundred Dollars (\$32,500.00)
22 for members employed by a comprehensive university if
23 the member meets the requirements imposed by Section

1 17-116.2A of this title and the member elects to
2 impose a higher maximum compensation level for service
3 performed on or after July 1, 1995, but not later than
4 June 30, 1996,

5 (e) Forty-four Thousand Dollars (\$44,000.00) for members
6 who, as of June 30, 1995, had elected to have a
7 maximum compensation level in excess of Twenty-five
8 Thousand Dollars (\$25,000.00), and who were employed
9 by an entity or institution within The Oklahoma State
10 System of Higher Education for creditable service
11 authorized and performed on or after July 1, 1995, but
12 not later than June 30, 1996, if such member does not
13 elect a higher maximum compensation level for this
14 period as authorized by Section 17-116.2A of this
15 title,

16 (f) Forty-nine Thousand Dollars (\$49,000.00) for members
17 employed by a comprehensive university if the member
18 meets the requirements imposed by Section 17-116.2A of
19 this title and the member elects to impose a higher
20 maximum compensation level for service performed on or
21 after July 1, 1995, but not later than June 30, 1996,

22 (g) the following amounts for creditable service
23 authorized and performed by members employed by a

1 comprehensive university, based upon the election of
2 the member in effect as of June 30, 1995:

3 1. for members who elected a maximum compensation
4 level not in excess of Twenty-five Thousand
5 Dollars (\$25,000.00):

6 (i) Thirty-two Thousand Five Hundred Dollars
7 (\$32,500.00) for service authorized and
8 performed on or after July 1, 1996, but not
9 later than June 30, 1997,

10 (ii) Thirty-seven Thousand Five Hundred Dollars
11 (\$37,500.00) for service authorized and
12 performed on or after July 1, 1997, but not
13 later than June 30, 1998,

14 (iii) Forty-two Thousand Five Hundred Dollars
15 (\$42,500.00) for service authorized and
16 performed on or after July 1, 1998, but not
17 later than June 30, 2000,

18 (iv) Forty-seven Thousand Five Hundred Dollars
19 (\$47,500.00) for service authorized and
20 performed on or after July 1, 2000, but not
21 later than June 30, 2001,

22 (v) Fifty-two Thousand Five Hundred Dollars
23 (\$52,500.00) for service authorized and

- 1 performed on or after July 1, 2001, but not
2 later than June 30, 2002,
- 3 (vi) Fifty-seven Thousand Five Hundred Dollars
4 (\$57,500.00) for service authorized and
5 performed on or after July 1, 2002, but not
6 later than June 30, 2003,
- 7 (vii) Sixty-two Thousand Five Hundred Dollars
8 (\$62,500.00) for service authorized and
9 performed on or after July 1, 2003, but not
10 later than June 30, 2004,
- 11 (viii) Sixty-seven Thousand Five Hundred Dollars
12 (\$67,500.00) for service authorized and
13 performed on or after July 1, 2004, but not
14 later than June 30, 2005,
- 15 (ix) Seventy-two Thousand Five Hundred Dollars
16 (\$72,500.00) for service authorized and
17 performed on or after July 1, 2005, but not
18 later than June 30, 2006,
- 19 (x) Seventy-seven Thousand Five Hundred Dollars
20 (\$77,500.00) for service authorized and
21 performed on or after July 1, 2006, but not
22 later than June 30, 2007,

- 1 (xi) the full amount of regular annual
- 2 compensation for service authorized and
- 3 performed on or after July 1, 2007, and
- 4 2. for members who elected a maximum compensation
- 5 level in excess of Twenty-five Thousand Dollars
- 6 (\$25,000.00):
- 7 (i) Forty-nine Thousand Dollars (\$49,000.00) for
- 8 service authorized and performed on or after
- 9 July 1, 1996, but not later than June 30,
- 10 1997,
- 11 (ii) Fifty-four Thousand Dollars (\$54,000.00) for
- 12 service authorized and performed on or after
- 13 July 1, 1997, but not later than June 30,
- 14 1998,
- 15 (iii) Fifty-nine Thousand Dollars (\$59,000.00) for
- 16 service authorized and performed on or after
- 17 July 1, 1998, but not later than June 30,
- 18 2000,
- 19 (iv) Sixty-four Thousand Dollars (\$64,000.00) for
- 20 service authorized and performed on or after
- 21 July 1, 2000, but not later than June 30,
- 22 2001,

- 1 (v) Sixty-nine Thousand Dollars (\$69,000.00) for
2 service authorized and performed on or after
3 July 1, 2001, but not later than June 30,
4 2002,
- 5 (vi) Seventy-four Thousand Dollars (\$74,000.00)
6 for service authorized and performed on or
7 after July 1, 2002, but not later than June
8 30, 2003,
- 9 (vii) Seventy-nine Thousand Dollars (\$79,000.00)
10 for service authorized and performed on or
11 after July 1, 2003, but not later than June
12 30, 2004,
- 13 (viii) Eighty-four Thousand Dollars (\$84,000.00)
14 for service authorized and performed on or
15 after July 1, 2004, but not later than June
16 30, 2005,
- 17 (ix) Eighty-nine Thousand Dollars (\$89,000.00)
18 for service authorized and performed on or
19 after July 1, 2005, but not later than June
20 30, 2006,
- 21 (x) Ninety-four Thousand Dollars (\$94,000.00)
22 for service authorized and performed on or

1 after July 1, 2006, but not later than June
 2 30, 2007,

3 (xi) the full amount of regular annual
 4 compensation for service authorized and
 5 performed on or after July 1, 2007,

6 (h) the full amount of regular annual compensation of:

7 1. a member of the retirement system not employed by
 8 an entity or institution within The Oklahoma
 9 State System of Higher Education for all
 10 creditable service authorized and performed on or
 11 after July 1, 1995,

12 2. a member of the retirement system first employed
 13 on or after July 1, 1995, by an entity or
 14 institution within The Oklahoma State System of
 15 Higher Education for all creditable service
 16 authorized and performed on or after July 1,
 17 1995, but not later than June 30, 1996,

18 3. a member of the retirement system employed by an
 19 entity or institution within The Oklahoma State
 20 System of Higher Education, other than a
 21 comprehensive university, if the member elects to
 22 impose a higher maximum compensation level for
 23 service performed on or after July 1, 1995, but

- 1 not later than June 30, 1996, pursuant to
2 subsection B of Section 17-116.2A of this title,
3 4. a member of the retirement system who is first
4 employed on or after July 1, 1996, by any entity
5 or institution within The Oklahoma State System
6 of Higher Education, including a comprehensive
7 university, for creditable service authorized and
8 performed on or after July 1, 1996,
9 5. a member of the retirement system who, as of July
10 1, 1996, is subject to a maximum compensation
11 level pursuant to paragraph (g) of this
12 subsection if the member terminates service with
13 a comprehensive university and is subsequently
14 reemployed by a comprehensive university,
15 6. a member of the retirement system employed by a
16 comprehensive university for all service
17 performed on and after July 1, 2007, or
18 7. an eligible member of the retirement system who
19 fulfills the requirements of Section 2 of this
20 act with respect to pre-cap removal service
21 included in the retirement benefit computation of
22 the member at the average salary of the member
23 subject to the maximum average salary amount.

1 (29) "Comprehensive university" shall mean:

2 (a) the University of Oklahoma and all of its constituent
3 agencies, including the University of Oklahoma Health
4 Sciences Center, the University of Oklahoma Law Center
5 and the Geological Survey, and

6 (b) Oklahoma State University and all of its constituent
7 agencies, including the Oklahoma State University
8 Agricultural Experiment Station, the Oklahoma State
9 University Agricultural Extension Division, the
10 Oklahoma State University College of Veterinary
11 Medicine, the Oklahoma State University Center for
12 Health Sciences, the Technical Branch at Oklahoma
13 City, the Technical Branch at Okmulgee and Oklahoma
14 State University-Tulsa.

15 SECTION 3. This act shall become effective July 1, 2008.

16 SECTION 4. It being immediately necessary for the preservation
17 of the public peace, health and safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

20 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE, dated
21 4-3-08 - DO PASS, As Amended.