

STATE OF OKLAHOMA

1st Session of the 51st Legislature (2007)

SENATE BILL 1126

By: Nichols

AS INTRODUCED

An Act relating to state government; amending 74 O.S. 2001, Section 902, as last amended by Section 134, Chapter 1, O.S.L. 2005 (74 O.S. Supp. 2006, Section 902), which relates to the Oklahoma Public Employees Retirement System; modifying definition of normal retirement date; providing an effective date; and declaring an 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 134, Chapter 1, O.S.L. 2005 (74 O.S. Supp. 2006, 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;

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

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

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

8 (7) "Beneficiary" means any person named by a member to receive
9 any benefits as provided for by Section 901 et seq. of this title.

10 If there is no beneficiary living at time of member employee's
11 death, the member's estate shall be the beneficiary;

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

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

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

1 For compensation for service on or after January 1,
2 1988, through June 30, 1994, the maximum compensation
3 level shall be Forty Thousand Dollars (\$40,000.00) per
4 annum.

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

- 21 (b) Compensation for retirement purposes shall include any
22 amount of elective salary reduction under Section 457
23 of the Internal Revenue Code of 1986 and any amount of
24

1 ~~non-elective~~ nonelective salary reduction under
2 Section 414(h) of the Internal Revenue Code of 1986.

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

9 (d) Current appointed members of the Oklahoma Tax
10 Commission whose salary is constitutionally limited
11 and is less than the highest salary allowed by law for
12 his or her position shall be allowed, within ninety
13 (90) days from the effective date of this act, to make
14 an election to use the highest salary allowed by law
15 for the position to which the member was appointed for
16 the purposes of making contributions and determination
17 of retirement benefits. Such election shall be
18 irrevocable and be in writing. ~~Re-appointment~~
19 Reappointment to the same office shall not permit a
20 new election. Members appointed to the Oklahoma Tax
21 Commission after the effective date of this act shall
22 make such election, pursuant to this subparagraph,
23 within ninety (90) days 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, circuit engineering
10 districts and any public or private trust in which a county, city or
11 town participates and is the primary beneficiary is to be an
12 eligible employer for the purpose of this act only, whose employees
13 are covered by Social Security and are not covered by or eligible
14 for another retirement plan authorized under the laws of this state
15 which is in operation on the initial entry date. Emergency medical
16 service districts may join the System upon proper application to the
17 Board. Provided affiliation by a county hospital shall be in the
18 form of a 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
24 the effective date, such employer shall be deemed an

1 eligible employer, but only with respect to that class
2 or those classes of employees as defined in this
3 section.

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

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

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

20 (d) A participating employer of the Teachers' Retirement
21 System of Oklahoma, who has one or more employees who
22 have made an election pursuant to enabling legislation
23 to retain membership in the System as a result of
24 change in administration, shall be considered a

1 participating employer of the Oklahoma Public

2 Employees Retirement System only for such employees;

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

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

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

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

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

11 (d) Eligibility shall also not include any officer or
12 employee of the Oklahoma Employment Security
13 Commission, except for those officers and employees of
14 the Commission electing to transfer to this System
15 pursuant to the provisions of Section 910.1 of this
16 title or any other class of officers or employees
17 specifically exempted by the laws of this state,
18 unless there be a consolidation as provided by Section
19 912 of this title. Employees of the Oklahoma
20 Employment Security Commission who are ineligible for
21 enrollment in the Employment Security Commission
22 Retirement Plan, that was in effect on January 1,
23 1964, shall become members of this System.

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

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

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

12 (iii) Notwithstanding the provisions of division (i) of
13 this subparagraph, a temporary legislative
14 session employee who elected to become a member
15 of the System may withdraw from the System
16 effective the day said employee elected to
17 participate in the System upon written request to
18 the Board. Any such request must be received by
19 the Board prior to October 1, 1990. All employee
20 contributions made by the temporary legislative
21 session employee shall be returned to the
22 employee without interest within four (4) months
23 of receipt of the written request.
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1 (iv) A member of the System who did not initially
2 elect to participate as a member of the System
3 pursuant to subparagraph (e) of this paragraph
4 shall be able to acquire service performed as a
5 temporary legislative session employee for
6 periods of service performed prior to the date
7 upon which the person became a member of the
8 System if:

- 9 a. the member files an election with the System
10 not later than December 31, 2000, to
11 purchase the prior service; and
- 12 b. the member makes payment to the System of
13 the actuarial cost of the service credit
14 pursuant to subsection A of Section 913.5 of
15 this title. The provisions of Section 913.5
16 of this title shall be applicable to the
17 purchase of the service credit, including
18 the provisions for determining service
19 credit in the event of incomplete payment
20 due to cessation of payments, death,
21 termination of employment or retirement, but
22 the payment may extend for a period not to
23 exceed ninety-six (96) months;
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1 (15) "Entry date" means the date on which an eligible employer
2 joins the System. The first entry date pursuant to Section 901 et
3 seq. of this title shall be January 1, 1964;

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

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

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

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

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

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

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

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

17 (a) during the following periods, including the beginning
18 and ending dates, and only for the periods served,
19 from:

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

22 (ii) September 16, 1940, to December 7, 1941, as a
23 member of the 45th Division,
24

- 1 (iii) December 7, 1941, to December 31, 1946, commonly
2 referred to as World War II,
- 3 (iv) June 27, 1950, to January 31, 1955, commonly
4 referred to as the Korean Conflict or the Korean
5 War,
- 6 (v) February 28, 1961, to May 7, 1975, commonly
7 referred to as the Vietnam era, except that:
8 a. for the period from February 28, 1961, to
9 August 4, 1964, military service shall only
10 include service in the Republic of Vietnam
11 during that period, and
12 b. for purposes of determining eligibility for
13 education and training benefits, such period
14 shall end on December 31, 1976, or
- 15 (vi) August 1, 1990, to December 31, 1991, commonly
16 referred to as the Gulf War, the Persian Gulf
17 War, or Operation Desert Storm, but excluding any
18 person who served on active duty for training
19 only, unless discharged from such active duty for
20 a service-connected disability;
- 21 (b) during a period of war or combat military operation
22 other than a conflict, war or era listed in
23 subparagraph (a) of this paragraph, beginning on the
24 date of Congressional authorization, Congressional

1 resolution, or Executive Order of the President of the
2 United States, for the use of the Armed Forces of the
3 United States in a war or combat military operation,
4 if such war or combat military operation lasted for a
5 period of ninety (90) days or more, for a person who
6 served, and only for the period served, in the area of
7 responsibility of the war or combat military
8 operation, but excluding a person who served on active
9 duty for training only, unless discharged from such
10 active duty for a service-connected disability, and
11 provided that the burden of proof of military service
12 during this period shall be with the member, who must
13 present appropriate documentation establishing such
14 service.

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

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

5 (a) whichever occurs first:

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

8 ~~(b) for any person who initially became a member prior to~~
9 ~~July 1, 1992,~~

10 (ii) the first day of the month coinciding with or
11 following the date at which the sum of a member's age
12 and number of years of credited service total eighty
13 (80); ~~such a normal retirement date will also apply to~~
14 ~~any person who became a member of the sending system~~
15 ~~as defined in Section 901 et seq. of this title, prior~~
16 ~~to July 1, 1992, regardless of whether there were~~
17 ~~breaks in service after July 1, 1992,~~

18 ~~(c) for any person who became a member after June 30,~~
19 ~~1992, the first day of the month coinciding with or~~
20 ~~following the date at which the sum of a member's age~~
21 ~~and number of years of credited service total ninety~~
22 ~~(90),~~

23 ~~(d) in addition to subparagraphs (a), (b) and (c) of this~~
24 ~~paragraph,~~

1 (b) the first day of the month coinciding with or
2 following a member's completion of at least twenty
3 (20) years of full-time-equivalent employment as:
4 (i) a correctional or probation and parole officer
5 with the Department of Corrections and at the
6 time of retirement, the member was a correctional
7 or probation and parole officer with the
8 Department of Corrections, ~~or~~
9 (ii) a correctional officer, probation and parole
10 officer or fugitive apprehension agent with the
11 Department of Corrections who is in such position
12 on June 30, 2004, or who is hired after June 30,
13 2004, and who receives a promotion or change in
14 job classification after June 30, 2004, to
15 another position in the Department of
16 Corrections, so long as such officer or agent has
17 at least five (5) years of service as a
18 correctional officer, probation and parole
19 officer or fugitive apprehension agent with the
20 Department, has twenty (20) years of full-time-
21 equivalent employment with the Department and was
22 employed by the Department at the time of
23 retirement, or
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1 (iii) a firefighter with the Oklahoma Military
2 Department either employed for the first time on
3 or after July 1, 2002, or who was employed prior
4 to July 1, 2002, in such position and who makes
5 the election authorized by division (2) of
6 subparagraph b of paragraph (8) of subsection A
7 of Section 915 of this title and at the time of
8 retirement, the member was a firefighter with the
9 Oklahoma Military Department, and such member has
10 at least twenty (20) years of credited service
11 upon which the two and one-half percent (2 1/2%)
12 multiplier will be used in calculating the
13 retirement benefit, or

14 ~~(e)~~

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

23 ~~(f) for any member who was continuously employed by an~~
24 ~~entity or institution within The Oklahoma State System~~

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

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

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

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

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

20 (29) "Retirement benefit" means a monthly income with benefits
21 accruing from the first day of the month coinciding with or
22 following retirement and ending on the last day of the month in
23 which death occurs or the actuarial equivalent thereof paid in such
24 manner as specified by the member pursuant to Section 901 et seq. of

1 this title or as otherwise allowed to be paid at the discretion of
2 the Board;

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

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

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

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

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

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

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

1 SECTION 2. This act shall become effective July 1, 2007.

2 SECTION 3. It being immediately necessary for the preservation
3 of the public peace, health and safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.

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