

THE STATE SENATE
Monday, February 23, 2009

Senate Bill No. 1242
As Amended

SB 1242

SENATE BILL NO. 1242 - By: Sparks of the Senate and Terrill of the House.

[Oklahoma Public Employees Retirement System - service credit - effective date - emergency]

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 913, as last amended by Section 1, Chapter 136, O.S.L. 2005 (74 O.S. Supp. 2008, Section 913), is amended to read as follows:

Section 913. A. Prior service shall be credited as follows:

1. A member shall receive full credit for employment with any participating employer prior to the entry date of his or her employer whether or not continuous and whether or not he or she was employed with a participating employer on such entry date, provided that any member who has retired before the passage of Section 901 et seq. of this title, shall not receive retirement benefits retroactively for such prior service. Provided, that at such time that an employer becomes a participating employer on or after January 1, 1965, and before January 1, 1975, each member and each retirant, upon making proper written application therefor, shall receive prior service credit for service with such employer in the

1 same manner as if such participating employer had been a
2 participating employer on the date first eligible to become a
3 participating employer; and increased benefits attributable to such
4 increased prior service credit shall commence with the next monthly
5 benefit payment due following receipt and approval of such
6 application by the Board of Trustees. No prior service shall be
7 granted, however, for periods of service in which the employee made
8 contributions which he or she subsequently withdrew, unless he or
9 she has complied with the provisions of subsection (5) of Section
10 917 of this title. The burden of proof regarding prior service
11 shall be with the member and shall be documented in such manner as
12 the Board may direct;

13 2. Any member who was employed in an institution of higher
14 learning by a State Board of Regents or who was employed by an
15 Oklahoma school district prior to July 1, 1943, may receive prior
16 service credit under this act for the period of time they were so
17 employed;

18 3. Any member who served in the Armed Forces of the United
19 States, as defined in paragraph (23) of Section 902 of this title,
20 prior to membership in the Oklahoma Public Employees Retirement
21 System shall be granted prior service credit, not to exceed five (5)
22 years, for those periods of active military service during which he
23 or she was a war veteran. For a member of the System hired on or

1 after July 1, 2003, if the military service credit authorized by
2 this paragraph is used to compute the retirement benefit of the
3 member and the member retires from the System, such military service
4 credit shall not be used to compute the retirement benefit in any
5 other retirement system created pursuant to the Oklahoma Statutes
6 and the member may receive credit for such service only in the
7 retirement system from which the member first retires;

8 4. An elective state, county, city or town official who is
9 ineligible for membership as a result of any applicable state law or
10 constitutional provision making him or her ineligible solely because
11 of his or her being such an official at the time of his or her
12 eligibility for membership at the time his or her employer becomes a
13 participating employer shall nevertheless not forfeit the prior
14 service credit to which he or she would be entitled except for such
15 ineligibility, provided that he or she either:

16 a. becomes an employee of a participating employer within
17 four (4) calendar months of the expiration of his or
18 her term of office current at the time of his or her
19 eligibility except for his or her being an elective
20 state or county official, or

21 b. within a period of four (4) years after the expiration
22 of his or her term of office current at the time of
23 his or her eligibility except for his or her being an

1 elective state or county official, is elected as a
2 state or county official and thereupon becomes a
3 member of the System, or

4 c. has completed ten (10) years of credited service as of
5 the date of his or her eligibility for membership
6 except for his or her being an elective state or
7 county official;

8 5. Beginning July 1, 1965, all employees of the Department of
9 Human Services shall participate in the Oklahoma Public Employees
10 Retirement System to the same extent as other employees of
11 participating employers in such System. Provided, that any employee
12 performing teaching services in the Oklahoma School for the Deaf or
13 the Oklahoma School for the Blind may elect to participate in the
14 Teachers' Retirement System of Oklahoma in lieu of the Oklahoma
15 Public Employees Retirement System; and any other employee at each
16 such institution or any other institution under the jurisdiction of
17 the Department of Human Services, participating in the Teachers'
18 Retirement System of Oklahoma, may elect to continue to participate
19 in such system in lieu of the Oklahoma Public Employees Retirement
20 System. All employees who shall have participated in the Teachers'
21 Retirement System of Oklahoma and not continuing therein shall have
22 the right to withdraw their membership from the Teachers' Retirement
23 System of Oklahoma on the same terms as other members withdrawing

1 from such System before retirement. Provided, all persons employed
2 at the Oklahoma School for the Blind and Oklahoma School for the
3 Deaf on June 30, 1965, who became subject to the Oklahoma Public
4 Employees Retirement System, on July 1, 1965, shall receive credit
5 for prior service and be eligible for participation, regardless of
6 age;

7 6. A member employed as a temporary employee by the Legislative
8 Service Bureau or its predecessors, the State Senate or the House of
9 Representatives for the full duration of a regular legislative
10 session prior to the member's eligibility for membership in the
11 System shall receive six (6) months of prior service credit for each
12 such full regular legislative session if the employee is employed by
13 the Legislative Service Bureau or its predecessors, the State Senate
14 or the House of Representatives as either a full-time or temporary
15 employee for a minimum of six (6) full regular legislative sessions
16 beginning January 1, 1983. For purposes of this subsection, the
17 determination of whether an employee is employed for the full
18 duration of a regular legislative session shall be made by the
19 Legislative Service Bureau if such employee is employed by the
20 Legislative Service Bureau, the State Senate if such employee is
21 employed by the State Senate, or by the House of Representatives if
22 such employee is employed by the House of Representatives;

1 7. A member of the System shall receive prior service credit
2 for any years of service after January 1, 1975, the member had with
3 a participating employer if the member is not receiving or eligible
4 to receive such prior service credit for the same time in any other
5 state or county retirement system authorized by law. To receive the
6 service credit, the member shall pay the amount determined by the
7 Board pursuant to Section 913.5 of this title; and

8 8. Any member who is a state employee and receives temporary
9 total disability benefits during the period of absence with a
10 participating employer due to a work-related injury or illness
11 incurred while engaged in a governmental function for said
12 participating employer pursuant to the Workers' Compensation Act
13 shall receive credit for participating service during said period of
14 absence subject to the following requirements:

- 15 a. the member was employed by the participating employer
16 immediately prior to and during the period of absence,
17 b. the member must notify the System in writing not later
18 than four (4) months after the member's return to his
19 or her job duties with the participating employer, or
20 termination of employment with the participating
21 employer, or termination of the temporary total
22 disability benefits, whichever is earlier, of the

1 member's desire to receive participating service
2 credit for the period of absence,
3 c. the participating employer must certify to the System
4 in writing the dates during which temporary total
5 disability benefits payments were paid to the member,
6 and
7 d. the member and the participating employer shall each
8 pay their respective contributions required for the
9 period of absence without interest within sixty (60)
10 days of invoicing by the System, or with interest of
11 seven and one-half percent (7 1/2%) compounded
12 annually if paid after said sixty (60) days.

13 B. Participating service shall be credited as follows:

14 1. A member shall receive credit for participating service with
15 a participating employer in accordance with the rules and
16 regulations established by the Board; provided, however, that a
17 member who is not a full-time employee shall receive prorated credit
18 for actual hours worked;

19 2. Leaves of absence shall not count as a break in continuous
20 employment provided the member leaves his or her accumulated
21 contribution on deposit with the fund; however, the leaves of
22 absence shall not be credited except that involuntary furloughs
23 established by Office of Personnel Management rules shall be

1 credited, as well as involuntary furloughs of employees of a
2 district attorney conducted in substantial compliance with the rules
3 of the Office of Personnel Management as certified by the District
4 Attorneys Council;

5 3. Any member who has served in the Armed Forces of the United
6 States, as defined in paragraph (23) of Section 902 of this title,
7 shall be granted participating service for those periods of active
8 military service during which he or she was a war veteran provided
9 this service is immediately preceded by a period of employment with
10 a participating employer and is followed by return to employment as
11 an employee with the same or another participating employer within
12 ninety (90) days immediately following discharge from such military
13 service provided the member leaves his or her accumulated
14 contributions on deposit with the fund;

15 4. A period of total disability under the System immediately
16 followed by employment with a participating employer, shall not
17 count as a break in continuous employment; provided, that such
18 periods while not employed shall not be credited except that
19 involuntary furloughs established by Office of Personnel Management
20 Rule 6.13, shall be credited;

21 5. Termination of employment with a participating employer
22 followed by employment with the same or another participating
23 employer within four (4) calendar months shall not constitute a

1 break in continuous employment; provided, that such period while not
2 employed shall not be credited as participating service;

3 6. Provided, however, that all employee contributions required
4 by this act made by employees prior to June 30, 1977, will entitle
5 the employee to additional years of participating service in
6 accordance with the following schedule.

7 Employee accumulated contributions:

8	More than \$1.00 up to \$500	= 1 year participating service
9	More than \$500 up to \$1,000	= 2 years participating service
10	More than \$1,000 up to \$1,500	= 3 years participating service
11	More than \$1,500 up to \$2,000	= 4 years participating service
12	More than \$2,000	= 5 years participating service

13 In no event shall the employee be entitled to more than five (5)
14 additional years of participating service as provided hereunder.

15 Provided further, that upon termination of employment prior to
16 retirement, the accumulated contributions will be credited as above
17 indicated to establish a vested benefit if so elected by any such
18 employee; and

19 7. The total participating service credit of a member who
20 retires or terminates employment and elects a vested benefit shall
21 include not to exceed ~~one hundred thirty (130)~~ two hundred (200)
22 days of unused sick leave accumulated subsequent to August 1, 1959,
23 during the member's employment with any participating employer.

1 Such credit shall be added in terms of whole months. Twenty (20)
2 days of unused sick leave shall equal one (1) month for purposes of
3 participating service credit. If unused sick leave entitles a
4 member to an additional year or years of service credit or to retire
5 prior to the member's normal retirement date, the member's employer
6 shall reimburse the System for the cost of funding the additional
7 reserve. Each participating employer shall provide the System with
8 adequate and timely information necessary to determine additional
9 benefits and its cost under this paragraph. This paragraph shall
10 apply to members retiring or vesting on or after July 1, 1984.

11 C. In determining the number of years of credited service, a
12 fractional year of six (6) months or more shall be considered as one
13 (1) year, and less than six (6) months shall be disregarded.

14 D. A member may receive credit for those years of credited
15 service accumulated by the member while a member of the Oklahoma
16 Firefighters Pension and Retirement System, the Oklahoma Police
17 Pension and Retirement System, the Uniform Retirement System for
18 Justices and Judges, the Oklahoma Law Enforcement Retirement System,
19 or the Teachers' Retirement System of Oklahoma, if the member is not
20 receiving or eligible to receive retirement credit or benefits from
21 said service in any other public retirement system. To receive the
22 service credit, the member shall pay the amount determined by the
23 Board pursuant to Section 913.5 of this title.

1 E. A member may receive credit for those years of service
2 accumulated by the member as an elected official if the member is
3 not receiving or eligible to receive retirement credit or benefits
4 from said service in any public retirement system. Prior to January
5 1, 1991, to receive the service credit, the member shall pay to the
6 Board for each year of service purchased pursuant to this subsection
7 a sum equal to the employee and employer contribution rate that
8 would have been applicable to the member as determined by the Board
9 and interest of not to exceed five percent (5%), and effective
10 January 1, 1991, to receive the service credit, the member shall pay
11 the amount determined by the Board pursuant to Section 913.5 of this
12 title.

13 F. Effective December 12, 1994, and thereafter, a leave of
14 absence on account of a period of qualified military service in the
15 uniformed services of the United States within the meaning of
16 Section 414(u) (5) of the federal Internal Revenue Code, followed by
17 a return to employment with the participating employer within ninety
18 (90) days after completion of the period of service may be eligible
19 for credited service under this System. Notwithstanding any
20 provision of this plan to the contrary, contributions, benefits and
21 service credit with respect to qualified military service will be
22 allowed in accordance with Section 414(u) of the federal Internal
23 Revenue Code.

1 G. 1. An active member of the Oklahoma Public Employees
2 Retirement System may receive credit for those years of service
3 accumulated by the member while a member of the Teachers' Retirement
4 System of Oklahoma if:

- 5 a. the member is an active member of the Oklahoma Public
6 Employees Retirement System, and
- 7 b. the member provides notice to the Teachers' Retirement
8 System of Oklahoma and the Oklahoma Public Employees
9 Retirement System of the member's election to transfer
10 said retirement credit. The notice shall include a
11 list of the years to be transferred, and
- 12 c. the member is not receiving or eligible to receive
13 retirement credit or benefits from said service in any
14 other public retirement system, notwithstanding the
15 years of service sought to be transferred under this
16 subsection.

17 Members electing to take advantage of the transfer authorized by
18 this subsection who are receiving or eligible to receive retirement
19 credit or benefits from said service in any other public retirement
20 system shall have all service credit with the Teachers' Retirement
21 System of Oklahoma canceled which is not transferred to the Oklahoma
22 Public Employees Retirement System or used as a cash offset in such
23 a transfer pursuant to subparagraph d of paragraph 2 of this

1 subsection. Service credit transferred to the Teachers' Retirement
2 System of Oklahoma under this subsection shall also be canceled with
3 the Oklahoma Public Employees Retirement System.

4 2. For purposes of this subsection, the "sending system" shall
5 mean the Teachers' Retirement System of Oklahoma. The "receiving
6 system" shall mean the Oklahoma Public Employees Retirement System.

7 a. Within thirty (30) days notification of an intent to
8 transfer is received by the sending system, the
9 sending system shall, according to its own rules and
10 regulations:

11 (1) for members who have vested with the sending
12 system, determine the present value of the
13 member's earned benefits attributable to the
14 years of service sought to be transferred,
15 discounted according to the member's age at the
16 time of transfer and computed as of the earliest
17 age at which the member would be able to retire.
18 Said computation shall assume an unreduced
19 benefit and be computed using interest and
20 mortality assumptions consistent with the
21 actuarial assumptions adopted by the Board of
22 Trustees for purposes of preparing the annual
23 actuarial evaluation but shall not make any

1 projections regarding future salary. For vested
2 employees the sending system shall use the
3 product of this calculation for purposes of
4 determining the transfer fee to be paid by the
5 employee under subparagraph c of this paragraph
6 so long as it is greater than the product of the
7 calculation in this division, and

8 (2) determine the sum of the employee and employer
9 contributions applicable to the years of service
10 sought to be transferred plus interest consistent
11 with the actuarial assumptions adopted by the
12 Board of Trustees for purposes of preparing the
13 annual actuarial evaluation. For all nonvested
14 members, and for vested members if the product of
15 this calculation is greater than the product of
16 the calculation in division (1) of this
17 subparagraph, the sending system shall use the
18 product of this calculation for purposes of
19 determining the amount to be transferred by the
20 sending system under subparagraph c of this
21 paragraph and any transfer fee to be paid by the
22 members under subparagraph d of this paragraph.

1 b. Within thirty (30) days after notification of an
2 intent to transfer is received by the receiving
3 system, the receiving system shall determine,
4 according to the system's own rules and regulations,
5 the present value of the member's incremental
6 projected benefits discounted according to the
7 member's age at the time of the transfer. Incremental
8 projected benefits shall be the difference between the
9 projected benefit said member would receive without
10 transferring the service credit and the projected
11 benefit after transfer of service credit computed as
12 of the earliest age at which the member would be able
13 to retire. Said computation shall assume an unreduced
14 benefit and be computed using interest, salary
15 projections and mortality assumptions consistent with
16 the actuarial assumptions adopted by the Board of
17 Trustees for purposes of preparing the annual
18 actuarial evaluation.

19 c. The sending system shall, within sixty (60) days from
20 the date notification of an intent to transfer is
21 received by the sending system, transfer to the
22 receiving system the amount determined in subparagraph
23 a of this paragraph. Except, if the cost under

1 subparagraph a of this paragraph for the same years of
2 service to the sending system is greater than the
3 actuarial value of the incremental benefit in the
4 receiving system, as established in subparagraph b of
5 this paragraph, the sending system shall send the
6 receiving system an amount equal to the actuarial
7 value of the incremental projected benefit in the
8 receiving system.

9 d. In order to receive the credit provided for in
10 paragraph 1 of this subsection, if the cost of the
11 actuarial value of the incremental benefit to the
12 receiving system is greater than the cost as
13 calculated under subparagraph a of this paragraph for
14 the same years of service to the sending system as
15 established in subparagraphs a and b of this
16 paragraph, the employee shall elect to:

- 17 (1) pay any difference to receive full credit for the
18 years sought to be transferred, or
19 (2) receive prorated service credit for only the
20 amount received from the Teachers' Retirement
21 System of Oklahoma pursuant to this subsection.

22 Such an election shall be made in writing, filed with
23 the System prior to receiving the credit provided for

1 in paragraph 1 of this subsection, and shall be
2 irrevocable.

3 3. Within sixty (60) days of successfully completing all of the
4 requirements for transfer under this subsection, the sending system
5 shall pay the receiving system any amount due under this subsection.
6 Within sixty (60) days of successfully completing all of the
7 requirements for transfer under this subsection, the member shall
8 pay the receiving system any amount due under this subsection. In
9 the event that the member is unable to pay the transfer fee provided
10 for in this subsection by the due date, the Board of Trustees of the
11 receiving system shall permit the member to amortize the transfer
12 fee over a period not to exceed sixty (60) months. Said payments
13 shall be made by payroll deductions unless the Board of Trustees
14 permits an alternate payment source. The amortization shall include
15 interest in an amount not to exceed the actuarially assumed interest
16 rate adopted by the Board of Trustees for investment earnings each
17 year. Any member who ceases to make payment, terminates, retires or
18 dies before completing the payments provided for in this section
19 shall receive prorated service credit for only those payments made,
20 unless the unpaid balance is paid by said member, his or her estate
21 or successor in interest within six (6) months after said member's
22 death, termination of employment or retirement, provided no
23 retirement benefits shall be payable until the unpaid balance is

1 paid, unless said member or beneficiary affirmatively waives the
2 additional six-month period in which to pay the unpaid balance.

3 4. Years of service transferred pursuant to this subsection
4 shall be used both in determining the member's retirement benefit
5 and in determining the years of service for retirement and/or
6 vesting purposes. Years of service rendered as a member of the
7 Teachers' Retirement System of Oklahoma prior to July 1, 1992, if
8 any, shall be deemed to be years of service rendered as a member of
9 the Oklahoma Public Employees Retirement System prior to July 1,
10 1992, and shall qualify such person as a member of the Oklahoma
11 Public Employees Retirement System before July 1, 1992.

12 5. Notwithstanding the requirements of Section 17-104 of Title
13 70 of the Oklahoma Statutes, members electing to take advantage of
14 the transfer authorized by this subsection who have withdrawn their
15 contributions from the sending system shall remit to the sending
16 system the amount of the accumulated contributions the member has
17 withdrawn plus simple interest of ten percent (10%) per annum prior
18 to making said election or the election shall be deemed invalid and
19 the transfer shall be canceled. If such an election is deemed
20 invalid and the transfer is canceled, the accumulated contribution
21 remitted to the sending system by the member who originally withdrew
22 their contributions shall be returned to the member. The member's
23 rights and obligations regarding any service credit reestablished in

1 the sending system due to a failure to satisfy the requirements of
2 this subsection shall be determined by the sending system in
3 accordance with Section 17-101 et seq. of Title 70 of the Oklahoma
4 Statutes.

5 6. If any member fails for any reason to satisfy the
6 requirements of this subsection, the election to transfer retirement
7 credit shall be void and of no effect, and any retirement credited
8 as a result of this transfer shall be canceled. If such retirement
9 credit is canceled, the years of canceled retirement credit which
10 were unsuccessfully transferred to the receiving system from the
11 sending system shall be reestablished in the sending system. The
12 member's rights and obligations regarding any retirement credit
13 reestablished in the sending system due to a failure to satisfy the
14 requirements of this subsection shall be determined by the sending
15 system in accordance with Section 17-101 et seq. of Title 70 of the
16 Oklahoma Statutes.

17 7. The Board of Trustees shall promulgate such rules as are
18 necessary to implement the provisions of this subsection.

19 H. 1. A member of the Teachers' Retirement System of Oklahoma
20 whose last service with the Teachers' Retirement System of Oklahoma
21 was with an entity or institution within The Oklahoma State System
22 of Higher Education, State Board of Education, State Board of Career
23 and Technology Education, Oklahoma Department of Career and

1 Technology Education, Oklahoma School of Science and Mathematics,
2 Oklahoma Center for the Advancement of Science and Technology, State
3 Department of Rehabilitation Services, Oklahoma State Regents for
4 Higher Education, Department of Corrections, State Department of
5 Education, Oklahoma Board of Private Vocational Schools, Board of
6 Regents of Oklahoma Colleges, Oklahoma Student Loan Authority, or
7 the Teachers' Retirement System of Oklahoma, may elect to receive
8 credit for those years of service accumulated by the member in the
9 Teachers' Retirement System of Oklahoma, pursuant to this
10 subsection. A member shall be eligible to elect to transfer credit
11 for such years of service from the Teachers' Retirement System of
12 Oklahoma to the Oklahoma Public Employees Retirement System if:

- 13 a. the member is an active member of the Oklahoma Public
14 Employees Retirement System,
- 15 b. the member provides notice to the Teachers' Retirement
16 System of Oklahoma and the Oklahoma Public Employees
17 Retirement System of the member's election to transfer
18 such retirement credit. The notice shall include a
19 list of the years to be transferred, and
- 20 c. the member is not receiving or eligible to receive
21 retirement credit or benefits from such service in any
22 other public retirement system, notwithstanding the

1 years of service sought to be transferred under this
2 subsection.

3 Members electing to take advantage of the transfer authorized by
4 this subsection shall have all service credit with the Teachers'
5 Retirement System of Oklahoma canceled which is transferred to the
6 Oklahoma Public Employees Retirement System.

7 2. For purposes of this subsection, the "sending system" shall
8 mean the Teachers' Retirement System of Oklahoma. The "receiving
9 system" shall mean the Oklahoma Public Employees Retirement System.
10 Within thirty (30) days after notification of an intent to transfer
11 is received by the sending system, the sending system shall,
12 according to its own rules, send to the receiving system all
13 employer and employee contributions made on behalf of the member
14 which were made to the sending system plus an additional amount of
15 earnings based on the actuarial assumed rate of the sending system.
16 Upon receipt of these contributions by the receiving system, the
17 receiving system shall give credit to the transferring member in an
18 amount equal to the years of service accrued in the sending system.

19 3. If the transferring member's normal retirement date
20 calculation is based upon the sum of the member's age and number of
21 years of credited service totaling eighty (80) in the sending
22 system, then the member shall retain such calculation in the
23 receiving system.

1 4. The Board of Trustees shall promulgate such rules as are
2 necessary to implement the provisions of this subsection.

3 I. A member of the System in the employment of the Governor,
4 the State Senate or the House of Representatives, on or after July
5 1, 1999, may make an election prior to December 31, 2000, which
6 shall be irrevocable and on a form prescribed for such purpose by
7 the System, to continue participation in the System upon becoming
8 employed by a participating employer of the Teachers' Retirement
9 System of Oklahoma. The Board shall promulgate all rules necessary
10 to implement the provisions of this subsection.

11 SECTION 2. This act shall become effective July 1, 2009.

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

16 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated
17 2-19-09 - DO PASS, As Amended and Coauthored.