

THE STATE SENATE
Monday, February 23, 2009

Senate Bill No. 859
As Amended

SB 859

SENATE BILL NO. 859 - By: Bass of the Senate and Dorman of the House.

[retirement - Teachers' Retirement System of Oklahoma -
effective date -
emergency]

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

SECTION 1. AMENDATORY 70 O.S. 2001, Section 17-105, as last amended by Section 17, Chapter 536, O.S.L. 2004 (70 O.S. Supp. 2008, Section 17-105), is amended to read as follows:

Section 17-105. (1) (a) Any member who has attained age fifty-five (55) or who has completed thirty (30) years of creditable service, as defined in Section 17-101 of this title, or for any person who initially became a member prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992, whose age and number of years of creditable service total eighty (80) may be retired upon filing a written application for such retirement. Such a retirement date will also apply to any person who became a member of the sending system as defined in this act, prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992. Any person who became a member after June 30, 1992, whose age and number of years of creditable service

1 total ninety (90) may be retired upon filing a written application
2 for such retirement. The application shall be filed on the form
3 provided by the Board of Trustees for this purpose, not less than
4 thirty (30) days nor more than ninety (90) days before the date of
5 retirement.

6 (b) An individual who becomes a member of the Teachers'
7 Retirement System after July 1, 1967, shall be employed by the
8 public schools, state colleges or universities of Oklahoma for a
9 minimum of five (5) years and be a contributing member of the
10 Teachers' Retirement System of Oklahoma for a minimum of five (5)
11 years to qualify for monthly retirement benefits from the Teachers'
12 Retirement System of Oklahoma.

13 (c) Any member with five (5) or more years of Oklahoma teaching
14 service and whose accumulated contributions during such period have
15 not been withdrawn shall be given an indefinite extension of
16 membership beginning with the sixth year following his or her last
17 contributing membership and shall become eligible to apply for
18 retirement and be retired upon attaining age fifty-five (55).

19 (d) Members currently teaching in the public schools of
20 Oklahoma past the fiscal year during which age seventy (70) was
21 attained and who have not retired shall be granted the privilege of
22 making up the five percent (5%) contributions, plus interest, for
23 the years taught after age seventy (70). Such member shall be given

1 an indefinite extension of membership and be eligible to retire upon
2 the filing of proper application for retirement as hereinbefore
3 provided.

4 (2) An unclassified optional member who has retired or who
5 retires at sixty-two (62) years of age or older or whose retirement
6 is because of disability shall have his or her minimum retirement
7 benefits calculated on an average salary of Five Thousand Three
8 Hundred Fifty Dollars (\$5,350.00) or, if a larger monthly allowance
9 would result, an amount arrived at pursuant to application of the
10 formula prescribed herein.

11 (3) No member shall receive a lesser retirement benefit than he
12 or she would have received under the law in effect at the time he or
13 she retired. Any individual under the Teachers' Retirement System,
14 who through error in stating the title of the position which he or
15 she held, may, at the discretion of the Board of Trustees, be
16 changed from the nonclassified optional group to the classified
17 group for the purpose of calculating retirement benefits.

18 Any individual regardless of residence, who has a minimum of ten
19 (10) years of teaching in Oklahoma schools prior to July 1, 1943, or
20 who taught in Oklahoma schools prior to 1934 and thereafter taught a
21 minimum of ten (10) years and who does not qualify under the present
22 retirement System, or who has a minimum of thirty (30) years of
23 teaching in Oklahoma schools and has reached seventy (70) years of

1 age prior to July 1, 1984, and is not otherwise eligible to receive
2 any benefits from the retirement system shall receive a minimum of
3 One Hundred Fifty Dollars (\$150.00) per month in retirement benefits
4 from the Teachers' Retirement System of Oklahoma plus any general
5 increase in benefits for annuitants as may be provided hereafter by
6 the Legislature. Each individual must apply to the Teachers'
7 Retirement System for such benefit and provide evidence to the
8 Teachers' Retirement System that the service was actually rendered.
9 The surviving spouse of any person who made application for the
10 benefit provided for by this paragraph during his or her lifetime
11 but did not receive said benefit may submit an application to the
12 System for payment of said benefit for those months during the
13 lifetime of the deceased person that he or she was eligible for but
14 did not receive the benefit. Upon approval of the application by
15 the Board of Trustees, the benefit shall be paid to the surviving
16 spouse in one lump sum.

17 (4) The value of each year of prior service is the total
18 monthly retirement benefit divided by the number of years of
19 creditable service.

20 (5) Upon application of a member who is actively engaged in
21 teaching in Oklahoma or his or her employer, any member who has been
22 a contributing member for ten (10) years may be retired by the Board
23 of Trustees not less than thirty (30) days nor more than ninety (90)

1 days subsequent to the execution and filing thereof, on a disability
2 retirement allowance, provided that it is found by the Board of
3 Trustees after medical examination of such member by a duly
4 qualified physician that such member is mentally or physically
5 incapacitated for further performance of duty, that such incapacity
6 is likely to be permanent, and that such member should be retired.
7 The Board of Trustees shall give due consideration to the
8 conclusions and recommendations in the certified written report of
9 the Medical Board of the Teachers' Retirement System regarding the
10 disability application of such member. If a member is determined to
11 be eligible for disability benefits pursuant to the Social Security
12 System, then such determination shall entitle the member to the
13 authorized disability retirement allowance provided by law. For
14 members who are not eligible for disability benefits pursuant to the
15 Social Security System, the Board of Trustees shall apply the same
16 standard for which provision is made in the first two sentences of
17 this subsection for determining the eligibility of a person for such
18 disability benefits in making a determination of eligibility for
19 disability benefits as authorized by this subsection.

20 (6) (a) A member who at the time of retirement has been found
21 to be permanently physically or mentally incapacitated to teach
22 school shall receive a minimum monthly retirement payment for life
23 or until such time as the member may be found to be recovered to the

1 point where he or she may return to teaching. Any member retired
2 before July 1, 1992 shall be eligible to receive the monthly
3 retirement allowance herein provided, but such payment shall not
4 begin until the first payment due him or her after July 1, 1992, and
5 shall not be retroactive. The Board of Trustees is empowered to
6 make such rules and regulations as it considers proper to preserve
7 equity in retirements under this provision, which shall include a
8 provision to protect the rights of the member's spouse.

9 (b) A member who has qualified for retirement benefits under
10 disability retirement shall have the total monthly payment deducted
11 from his or her accumulated contributions plus interest earned and
12 any money remaining in the member's account after the above
13 deductions at the death of the member shall be paid in a lump sum to
14 the beneficiary or to the estate of the member. Provided, if the
15 deceased disabled member had thirty (30) years or more of creditable
16 service and the death occurred after June 30, 1981, and death
17 occurred prior to the disabled member receiving twelve monthly
18 retirement payments, a surviving spouse may elect to receive the
19 retirement benefit to which the deceased member would have been
20 entitled at the time of death under the Option 2 Plan of Retirement
21 provided for in subsection (8) of this section in lieu of the death
22 benefit provided for in this subsection and in subsection (12) of
23 this section.

1 (c) Once each year the Board of Trustees may require any
2 disabled annuitant who has not yet attained the age of sixty (60)
3 years to undergo a medical examination, such examination to be made
4 at the place of residence for said disabled annuitant or other place
5 mutually agreed upon by a physician or physicians designated by the
6 Board of Trustees. Should any disabled annuitant who has not yet
7 attained the age of sixty (60) years refuse to submit to at least
8 one medical examination in any such year by a physician or
9 physicians designated by the Board of Trustees his or her allowance
10 may be discontinued until he or she submits to such examination.

11 (d) Should the Medical Board report and certify to the Board of
12 Trustees that such disabled annuitant is engaged in or is able to
13 engage in a gainful occupation paying more than the difference
14 between his or her retirement allowance and the average final
15 compensation, and should the Board of Trustees concur in such report
16 then the amount of his or her pension shall be reduced to an amount
17 which, together with his or her retirement allowance and that amount
18 earnable by him or her, shall equal the amount of his or her average
19 final compensation. Should his or her earning capacity be later
20 increased, the amount of his or her pension may be further modified,
21 provided the new pension shall not exceed that amount of the pension
22 originally granted nor an amount, which when added to the amount

1 earnable by the member, together with his or her annuity, equals the
2 amount of his or her average final compensation.

3 (e) Should a disabled annuitant be restored to active service,
4 his or her disability retirement allowance shall cease and he or she
5 shall again become a member of the Teachers' Retirement System and
6 shall make regular contributions as required under this article.
7 The unused portion of his or her accumulated contributions shall be
8 reestablished to his or her credit in the Teachers' Savings Fund.
9 Any such prior service certificates on the basis of which his or her
10 service was computed at the time of his or her retirement shall be
11 restored to full force and effect.

12 (7) Should a member before retirement under Section 1-101 et
13 seq. of this title make application for withdrawal duly filed with
14 the Board of Trustees and approved by it, not earlier than four (4)
15 months after the date of termination of such service as a teacher,
16 the contribution standing to the credit of his or her individual
17 account in the Teachers' Savings Fund shall be paid to him or her
18 or, in the event of his or her death before retirement, shall be
19 paid to such person or persons as he or she shall have nominated by
20 written designation, duly executed and filed with the Board of
21 Trustees; provided, however, if there be no designated beneficiary
22 surviving upon such death, such contributions shall be paid to his
23 or her administrators, executors, or assigns, together with interest

1 as hereinafter provided. In lieu of a lump-sum settlement at the
2 death of the member, the amount of money the member has on deposit
3 in the Teachers' Savings Fund and the money the member has on
4 deposit in the Teachers' Deposit Fund may be paid in monthly
5 payments to a designated beneficiary, who must be the spouse, under
6 the Maximum or Option 1 Plan of Retirement providing the monthly
7 payment shall be not less than Twenty-five Dollars (\$25.00) per
8 month. The monthly payment shall be the actuarial equivalent of the
9 amount becoming due at the member's death based on the sex of the
10 spouse and the age the spouse has attained at the last birthday
11 prior to the member's death. Provided further, if there be no
12 designated beneficiary surviving upon such death, and the
13 contributions standing to the credit of such member do not exceed
14 Two Hundred Dollars (\$200.00), no part of such contributions shall
15 be subject to the payment of any expense of the last illness or
16 funeral of the deceased member or any expense of administration of
17 the estate of such deceased and the Board of Trustees, upon
18 satisfactory proof of the death of such member and of the name or
19 names of the person or persons who would be entitled to receive such
20 contributions under the laws of descent and distribution of the
21 state, may authorize the payment of accumulated contributions to
22 such person or persons. A member terminating his or her membership
23 by withdrawal after June 30, 2003, shall have the interest computed

1 at a rate of interest determined by the Board of Trustees and paid
2 to him or her subject to the following schedule:

3 (a) If termination occurs within sixteen (16) years from the
4 date membership began, fifty percent (50%) of such interest
5 accumulations shall be paid.

6 (b) With at least sixteen (16) but less than twenty-one (21)
7 years of membership, sixty percent (60%) of such interest
8 accumulations shall be paid.

9 (c) With at least twenty-one (21) but less than twenty-six (26)
10 years of membership, seventy-five percent (75%) of such interest
11 accumulations shall be paid.

12 (d) With at least twenty-six (26) years of membership, ninety
13 percent (90%) of such interest accumulations shall be paid.

14 In case of death of an active member, the interest shall be
15 calculated and restored to the member's account and paid to his or
16 her beneficiary.

17 (8) (a) In lieu of his or her retirement allowance payable
18 throughout life for such an amount as determined under this section,
19 the member may select a retirement allowance for a reduced amount
20 payable under any of the following options the present value of
21 which is the actuarial equivalent thereof.

22 (b) A member may select the option under which he or she
23 desires to retire at the end of the school year in which he or she

1 attains age seventy (70) and said option shall be binding and cannot
2 be changed. Provided further that if a member retires before age
3 seventy (70), no election of an option shall be effective in case an
4 annuitant dies before the first payment due under such option has
5 been received.

6 (c) The first payment of any benefit selected shall be made on
7 the first day of the month following approval of the retirement by
8 the Board of Trustees. If the named designated beneficiary under
9 Option 2 or 3 dies at any time after the member's retirement date,
10 but before the death of the member, the member shall return to the
11 retirement benefit, including any post retirement benefit increases
12 the member would have received had the member not selected Option 2
13 or 3 of this subsection. The benefit shall be determined at the
14 date of death of the designated beneficiary or July 1, 1994,
15 whichever is later. This increase shall become effective the first
16 day of the month following the date of death of the designated
17 beneficiary or July 1, 1994, whichever is later, and shall be
18 payable for the member's remaining lifetime. The member shall
19 notify the Teachers' Retirement System of Oklahoma of the death of
20 the designated beneficiary in writing. In the absence of said
21 written notice being filed by the member notifying the Teachers'
22 Retirement System of Oklahoma of the death of the designated
23 beneficiary within six (6) months of the date of death, nothing in

1 this subsection shall require the Teachers' Retirement System of
2 Oklahoma to pay more than six (6) months of retrospective benefits
3 increase.

4 Option 1. If he or she dies before he or she has received in
5 annuity payments the present value of his or her annuity as it was
6 at the time of his or her retirement, the balance shall be paid to
7 his or her legal representatives or to such person as he or she
8 shall nominate by written designation duly acknowledged and filed
9 with the Board of Trustees at the time of his or her retirement; or

10 Option 2. A member takes a reduced retirement allowance for
11 life. Upon the death of the member the payments shall continue to
12 the member's designated beneficiary for the life of the beneficiary.
13 The written designation of the beneficiary must be duly acknowledged
14 and filed with the Board of Trustees at the time of the member's
15 retirement and, except as provided in paragraph (e) of this
16 subsection, cannot be changed after the effective date of the
17 member's retirement; or

18 Option 3. A member receives a reduced retirement allowance for
19 life. Upon the death of the member one-half (1/2) of the retirement
20 allowance paid the member shall be continued throughout the life of
21 the designated beneficiary. A written designation of a beneficiary
22 must be duly acknowledged and filed with the Board of Trustees at
23 the time of the member's retirement and, except as provided in

1 paragraph (e) of this subsection, cannot be changed after the
2 effective date of the member's retirement; or

3 Option 4. Some other benefit or benefits shall be paid either
4 to the member or to such person or persons as he or she shall
5 nominate, provided such other benefit or benefits, together with the
6 reduced retirement allowance, shall be certified by the actuary to
7 be of equivalent actuarial value to his or her retirement allowance
8 and shall be approved by the Board of Trustees; or

9 Option 5. A member receives a reduced retirement allowance for
10 life. If the member dies within twenty-five (25) years from the
11 date of commencement of the retirement payments, such payments shall
12 be continued to the beneficiary of the member during the balance of
13 the twenty-five-year period. The written designation of the
14 beneficiary, who must be a spouse, shall be duly acknowledged and
15 filed with the Board of Trustees at the time of the member's
16 retirement.

17 (d) Provided that Option 2 and Option 3 shall not be available
18 if the member's expected benefit is less than fifty percent (50%) of
19 the lump-sum actuarial equivalent and the designated beneficiary is
20 not the spouse of the member.

21 (e) A member who chose the maximum retirement benefit plan at
22 the time of retirement may elect to choose either Option 2 or 3 and
23 name the member's spouse as designated beneficiary if the member

1 marries after making the initial election. The member shall provide
2 proof of a member's good health before the Board of Trustees will
3 permit a change to either Option 2 or 3 and the naming of a
4 designated beneficiary. A medical examination conducted by a
5 licensed physician is required for purposes of determining good
6 health. Such examination must be approved by the Medical Board.
7 The member shall be required to provide proof of age for the new
8 beneficiary. The Board of Trustees shall adjust the monthly benefit
9 to the actuarially equivalent amount based on the new designated
10 beneficiary's age. The Board of Trustees shall promulgate rules to
11 implement the provisions of this subsection.

12 (9) The governing board of any "public school", as that term is
13 defined in Section 17-101 of this title, is hereby authorized and
14 empowered to pay additional retirement allowances or compensation to
15 any person who was in the employ of such public school for not less
16 than seven (7) school years preceding the date of his or her
17 retirement. Payments so made shall be a proper charge against the
18 current appropriation or appropriations of any such public school
19 for salaries for the fiscal year in which such payments are made.
20 Such payments shall be made in regular monthly installments in such
21 amounts as the governing board of any such public school, in its
22 judgment, shall determine to be reasonable and appropriate in view
23 of the length and type of service rendered by any such person to

1 such public school by which such person was employed at the time of
2 retirement. All such additional payments shall be uniform, based
3 upon the length of service and the type of services performed, to
4 persons formerly employed by such public school who have retired or
5 been retired in accordance with the provisions of Section 1-101 et
6 seq. of this title.

7 The governing board of any such public school may adopt rules
8 and regulations of general application outlining the terms and
9 conditions under which such additional retirement benefits shall be
10 paid, and all decisions of such board shall be final.

11 (10) In addition to the teachers' retirement herein provided,
12 teachers may voluntarily avail themselves of the Federal Social
13 Security Program upon a district basis.

14 (11) Upon the death of an in-service member, the System shall
15 pay to the designated beneficiary of the member or, if there is no
16 designated beneficiary or if the designated beneficiary predeceases
17 the member, to the estate of the member, the sum of Eighteen
18 Thousand Dollars (\$18,000.00) as a death benefit. Provided, if the
19 deceased member had ten (10) years or more of creditable service and
20 the death occurred after February 1, 1985, the member's designated
21 beneficiary may elect to receive the retirement benefit to which the
22 deceased member would have been entitled at the time of death under
23 the Option 2 plan of retirement in lieu of the death benefit

1 provided for in this subsection. Provided further, the option
2 provided in this subsection is only available when the member has
3 designated one individual as the designated beneficiary.

4 (12) Upon the death of an annuitant who has contributed to the
5 System, the retirement system shall pay to the designated
6 beneficiary of the annuitant or, if there is no designated
7 beneficiary or if the designated beneficiary predeceases the
8 annuitant, to the estate of the annuitant, the sum of Five Thousand
9 Dollars (\$5,000.00) as a death benefit. The benefit payable
10 pursuant to this subsection shall be deemed, for purposes of federal
11 income taxation, as life insurance proceeds and not as a death
12 benefit if the Internal Revenue Service approves this provision
13 pursuant to a private letter ruling request which shall be submitted
14 by the board of trustees of the System for that purpose.

15 (13) Upon the death of a member who dies leaving no living
16 beneficiary or having designated his or her estate as beneficiary,
17 the System may pay any applicable death benefit, unpaid
18 contributions, or unpaid benefit which may be subject to probate, in
19 an amount of Five Thousand Dollars (\$5,000.00) or less, without the
20 intervention of the probate court or probate procedure pursuant to
21 Section 1 et seq. of Title 58 of the Oklahoma Statutes.

22 (a) Before any applicable probate procedure may be waived, the
23 System must be in receipt of the member's proof of death and the

1 following documents from those persons claiming to be the legal
2 heirs of the deceased member:

3 1. The member's valid last will and testament;

4 2. An affidavit or affidavits of heirship which must
5 state:

6 a. the names and signatures of all claiming heirs to
7 the deceased member's estate including the
8 claiming heirs' names, relationship to the
9 deceased, current addresses and current telephone
10 numbers,

11 b. a statement or statements by the claiming heirs
12 that no application or petition for the
13 appointment of a personal representative is
14 pending or has been granted in any jurisdiction,

15 c. a statement that the value of the deceased
16 member's entire estate is subject to probate, and
17 that the estate wherever located, less liens and
18 encumbrances, does not exceed Five Thousand
19 Dollars (\$5,000.00), including the payment of
20 benefits or unpaid contributions from the System
21 as authorized by this subsection,

22 d. a description of the personal property claimed,
23 (i.e., death benefit or unpaid contributions or

- 1 both) together with a statement that such
2 personal property is subject to probate,
3 e. a statement by each individual claiming heir
4 identifying the amount of personal property that
5 the heir is claiming from the System, and that
6 the heir has been notified of, is aware of and
7 consents to the identified claims of all the
8 other claiming heirs of the deceased member
9 pending with the System;
- 10 3. A written agreement or agreements signed by all
11 claiming heirs of the deceased member which provides
12 that the claiming heirs release, discharge and hold
13 harmless the System from any and all liability,
14 obligations and costs which it may incur as a result
15 of making a payment to any of the deceased member's
16 heirs;
- 17 4. A corroborating affidavit from an individual other
18 than a claiming heir, who was familiar with the
19 affairs of the deceased member;
- 20 5. Proof that all debts of the deceased member, including
21 payment of last sickness, hospital, medical, death,
22 funeral and burial expenses have been paid or provided
23 for.

1 (b) The Executive Director of the System shall retain complete
2 discretion in determining which requests for probate waiver may be
3 granted or denied, for any reason. Should the System have any
4 question as to the validity of any document presented by the
5 claiming heirs, or as to any statement or assertion contained
6 therein, the probate requirement provided for in Section 1 et seq.
7 of Title 58 of the Oklahoma Statutes, shall not be waived.

8 (c) After paying any death benefits or unpaid contributions to
9 any claiming heirs as provided pursuant to this subsection, the
10 System is discharged and released from any and all liability,
11 obligation and costs to the same extent as if the System had dealt
12 with a personal representative of the deceased member. The System
13 is not required to inquire into the truth of any matter specified in
14 this subsection or into the payment of any estate tax liability.

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

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

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

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
3 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated
4 2-19-09 - DO PASS, As Amended and Coauthored.