

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1004 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Randy McDaniel \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

PROPOSED COMMITTEE  
SUBSTITUTE  
FOR  
HOUSE BILL NO. 1004

By: McDaniel (Randy)

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to public retirement systems; enacting the Leadership by Example Act; providing for defined contribution plan for elected officials based on elected official service on or after designated date; requiring Board of Trustees of Oklahoma Public Employees Retirement System to establish defined contribution plan account; authorizing Board of Trustees to contract for certain third-party services; requiring private letter request to the Internal Revenue Service regarding tax-qualified status of defined contribution plan; providing for election regarding member contribution; providing for matching amount; providing for establishment of defined contribution plan accounts similar to options available pursuant to deferred compensation plan; providing for vesting of member contributions; providing for vesting of matching employer contribution amounts; providing for withdrawal of plan account balance based upon vesting schedule; providing for period of authorized participation in defined contribution plan; prescribing procedures upon termination of service; amending 74 O.S. 2001, Sections 902, as last amended by Section 1, Chapter 435, O.S.L. 2010, 913.4, as last amended by Section 2, Chapter 435, O.S.L. 2010 and 920, as last amended by Section 1, Chapter 470, O.S.L. 2010 (74 O.S. Supp. 2010, Sections 902, 913.4 and 920), which relate to the Oklahoma Public Employees Retirement System; modifying definitions; modifying provisions related to retirement benefit computations for elected officials; modifying provisions related to

1 contributions for elected officials; providing for  
2 codification; and providing for noncodification.

3  
4  
5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

6 SECTION 1. NEW LAW A new section of law not to be  
7 codified in the Oklahoma Statutes reads as follows:

8 This act shall be known and may be cited as the "Leadership by  
9 Example Act".

10 SECTION 2. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 913.4A of Title 74, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. For elected officials whose first service as an elected or  
14 appointed official member of the Oklahoma Public Employees  
15 Retirement System occurs on or after the effective date of this act,  
16 the retirement benefit for such elected official shall be governed  
17 by the provisions of this section and the elected official shall not  
18 have retirement benefits computed pursuant to Section 913.4 of Title  
19 74 of the Oklahoma Statutes.

20 B. The Board of Trustees of the Oklahoma Public Employees  
21 Retirement System shall establish a defined contribution plan for  
22 elected officials whose first service as an elected or appointed  
23 official occurs on or after the effective date of this act. The  
24 Board of Trustees shall make a request pursuant to the private

1 letter determination process prescribed by the provisions of the  
2 Internal Revenue Code of 1986, as amended, and any applicable rules  
3 of the Internal Revenue Service, that the defined contribution plan  
4 required by this section is a tax-qualified retirement plan. Such  
5 request shall be made not later than sixty (60) days after the  
6 effective date of this act.

7 C. Elected officials may make an election to contribute three  
8 and one-half percent (3.5%) of their compensation to a defined  
9 contribution plan account. The state or local government entity  
10 responsible for compensation of the official shall provide a  
11 matching payment to the defined contribution plan account  
12 established for the elected official equal to three and one-half  
13 percent (3.5%) of the compensation amount.

14 D. At the option of the elected official, an elected official  
15 may make an election to contribute ten percent (10%) of their  
16 compensation to a defined contribution plan account. The state or  
17 local government entity responsible for compensation of the official  
18 shall provide a matching payment to the defined contribution plan  
19 account equal to six percent (6%) of the compensation amount.

20 E. The Board of Trustees of the Oklahoma Public Employees  
21 Retirement System shall establish or shall contract with a third-  
22 party provider to establish a range of defined contribution plan  
23 accounts similar to the accounts available to members of the  
24 Oklahoma Public Employees Retirement System who participate in the

1 deferred compensation arrangement authorized pursuant to Section  
2 1701 of Title 74 of the Oklahoma Statutes.

3 F. Elected officials shall be vested at one hundred percent  
4 (100%) with respect to their member contributions at all times  
5 during their participation in the defined contribution plan  
6 authorized by this section.

7 G. Elected officials shall be vested with respect to matching  
8 employer contributions according to the following schedule:

- 9 1. Twenty percent (20%) after one (1) year of service;
- 10 2. Forty percent (40%) after two (2) years of service;
- 11 3. Sixty percent (60%) after three (3) years of service;
- 12 4. Eighty percent (80%) after four (4) years of service; and
- 13 5. One hundred percent (100%) vested after five (5) years of  
14 service.

15 H. Member contributions and employer matching contributions to  
16 the extent the elected official is vested as provided by subsection  
17 G of this section may be withdrawn upon termination from  
18 participation in the defined contribution plan.

19 I. There shall be no limit on the maximum period of  
20 participation in the defined contribution plan authorized by this  
21 section except as may be imposed pursuant to the provisions of the  
22 Internal Revenue Code of 1986, as amended, or any applicable rules  
23 of the Internal Revenue Service.

24

1 J. Upon termination of service as an elected official, the  
2 elected official shall be able to receive a distribution from the  
3 defined contribution plan account according to the terms for such  
4 distributions as established by the Board of Trustees or as  
5 established by the requirements applicable to any defined  
6 contribution plan account maintained for the benefit of the elected  
7 official by a third-party provider.

8 SECTION 3. AMENDATORY 74 O.S. 2001, Section 902, as last  
9 amended by Section 1, Chapter 435, O.S.L. 2010 (74 O.S. Supp. 2010,  
10 Section 902), is amended to read as follows:

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

12 (1) "System" means the Oklahoma Public Employees Retirement  
13 System as established by this act and as it may hereafter be  
14 amended;

15 (2) "Accumulated contributions" means the sum of all  
16 contributions by a member to the System which shall be credited to  
17 the member's account, including contributions paid into a defined  
18 contribution plan account pursuant to Section 2 of this act;

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

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

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

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

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

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

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

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

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

24

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

17 (b) Compensation for retirement purposes shall include any  
18 amount of elective salary reduction under Section 457  
19 of the Internal Revenue Code of 1986 and any amount of  
20 nonelective salary reduction under Section 414(h) of  
21 the Internal Revenue Code of 1986.

22 (c) Notwithstanding any provision to the contrary, the  
23 compensation taken into account for any employee in  
24 determining the contribution or benefit accruals for

1 any plan year is limited to the annual compensation  
2 limit under Section 401(a)(17) of the federal Internal  
3 Revenue Code.

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

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

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

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

3 (13) "Eligible employer" means the state and any county, county  
4 hospital, city or town, conservation districts, circuit engineering  
5 districts and any public or private trust in which a county, city or  
6 town participates and is the primary beneficiary is to be an  
7 eligible employer for the purpose of this act only, whose employees  
8 are covered by Social Security and are not covered by or eligible  
9 for another retirement plan authorized under the laws of this state  
10 which is in operation on the initial entry date. Emergency medical  
11 service districts may join the System upon proper application to the  
12 Board. Provided affiliation by a county hospital shall be in the  
13 form of a resolution adopted by the board of control.

14 (a) If a class or several classes of employees of any  
15 above-defined employers are covered by Social Security  
16 and are not covered by or eligible for and will not  
17 become eligible for another retirement plan authorized  
18 under the laws of this state, which is in operation on  
19 the effective date, such employer shall be deemed an  
20 eligible employer, but only with respect to that class  
21 or those classes of employees as defined in this  
22 section.

23 (b) A class or several classes of employees who are  
24 covered by Social Security and are not covered by or

1 eligible for and will not become eligible for another  
2 retirement plan authorized under the laws of this  
3 state, which is in operation on the effective date,  
4 and when the qualifications for employment in such  
5 class or classes are set by state law; and when such  
6 class or classes of employees are employed by a county  
7 or municipal government pursuant to such  
8 qualifications; and when the services provided by such  
9 employees are of such nature that they qualify for  
10 matching by or contributions from state or federal  
11 funds administered by an agency of state government  
12 which qualifies as a participating employer, then the  
13 agency of state government administering the state or  
14 federal funds shall be deemed an eligible employer,  
15 but only with respect to that class or those classes  
16 of employees as defined in this subsection; provided,  
17 that the required contributions to the retirement plan  
18 may be withheld from the contributions of state or  
19 federal funds administered by the state agency and  
20 transmitted to the System on the same basis as the  
21 employee and employer contributions are transmitted  
22 for the direct employees of the state agency. The  
23 retirement or eligibility for retirement under the  
24 provisions of law providing pensions for service as a

1 volunteer fire fighter shall not render any person  
2 ineligible for participation in the benefits provided  
3 for in Section 901 et seq. of this title. An employee  
4 of any public or private trust in which a county, city  
5 or town participates and is the primary beneficiary  
6 shall be deemed to be an eligible employee for the  
7 purpose of this act only.

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

15 (d) A participating employer of the Teachers' Retirement  
16 System of Oklahoma, who has one or more employees who  
17 have made an election pursuant to enabling legislation  
18 to retain membership in the System as a result of  
19 change in administration, shall be considered a  
20 participating employer of the Oklahoma Public  
21 Employees Retirement System only for such employees;

22 (14) "Employee" means any officer or employee of a  
23 participating employer, whose employment is not seasonal or  
24 temporary and whose employment requires at least one thousand

1 (1,000) hours of work per year and whose salary or wage is equal to  
2 the hourly rate of the monthly minimum wage for state employees.

3 For those eligible employers outlined in Section 910 of this title,  
4 the rate shall be equal to the hourly rate of the monthly minimum  
5 wage for that employer. Each employer, whose minimum wage is less  
6 than the state's minimum wage, shall inform the System of the  
7 minimum wage for that employer. This notification shall be by  
8 resolution of the governing body.

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

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

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

1 of district attorney shall be given credit for prior  
2 service as defined in this section. The provisions  
3 outlined in Section 917 of this title shall apply to  
4 those employees who have previously withdrawn their  
5 contributions.

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

19 (e) Any employee employed by the Legislative Service  
20 Bureau, State Senate or House of Representatives for  
21 the full duration of a regular legislative session  
22 shall be eligible for membership in the System  
23 regardless of classification as a temporary employee  
24 and may participate in the System during the regular

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

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

20 (ii) Notwithstanding the provisions of division (i) of  
21 this subparagraph, any employee, who is eligible  
22 for membership in the System because of the  
23 provisions of this subparagraph and who was  
24 employed by the State Senate or House of

1 Representatives after January 1, 1989, may file  
2 an election, in a manner specified by the Board,  
3 to participate as a member of the System prior to  
4 September 1, 1989.

5 (iii) Notwithstanding the provisions of division (i) of  
6 this subparagraph, a temporary legislative  
7 session employee who elected to become a member  
8 of the System may withdraw from the System  
9 effective the day said employee elected to  
10 participate in the System upon written request to  
11 the Board. Any such request must be received by  
12 the Board prior to October 1, 1990. All employee  
13 contributions made by the temporary legislative  
14 session employee shall be returned to the  
15 employee without interest within four (4) months  
16 of receipt of the written request.

17 (iv) A member of the System who did not initially  
18 elect to participate as a member of the System  
19 pursuant to this subparagraph ~~(e) of this~~  
20 ~~paragraph~~ shall be able to acquire service  
21 performed as a temporary legislative session  
22 employee for periods of service performed prior  
23 to the date upon which the person became a member  
24 of the System if:

- 1           a.    the member files an election with the System  
2                   not later than December 31, 2000, to  
3                   purchase the prior service; and
- 4           b.    the member makes payment to the System of  
5                   the actuarial cost of the service credit  
6                   pursuant to subsection A of Section 913.5 of  
7                   this title.  The provisions of Section 913.5  
8                   of this title shall be applicable to the  
9                   purchase of the service credit, including  
10                  the provisions for determining service  
11                  credit in the event of incomplete payment  
12                  due to cessation of payments, death,  
13                  termination of employment or retirement, but  
14                  the payment may extend for a period not to  
15                  exceed ninety-six (96) months;

16           (15)  "Entry date" means the date on which an eligible employer  
17 joins the System.  The first entry date pursuant to Section 901 et  
18 seq. of this title shall be January 1, 1964;

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

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

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

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

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

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

22 (22) "Member" means an eligible employee or elected official  
23 who is in the System and is making the required employee or elected  
24 official contributions, or any former employee or elected official

1 who shall have made the required contributions to the System and  
2 shall have not received a refund or withdrawal;

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

8 (a) during the following periods, including the beginning  
9 and ending dates, and only for the periods served,  
10 from:

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

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

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

17 (iv) June 27, 1950, to January 31, 1955, commonly  
18 referred to as the Korean Conflict or the Korean  
19 War,

20 (v) February 28, 1961, to May 7, 1975, commonly  
21 referred to as the Vietnam era, except that:

22 a. for the period from February 28, 1961, to  
23 August 4, 1964, military service shall only  
24

1 include service in the Republic of Vietnam  
2 during that period, and

3 b. for purposes of determining eligibility for  
4 education and training benefits, such period  
5 shall end on December 31, 1976, or

6 (vi) August 1, 1990, to December 31, 1991, commonly  
7 referred to as the Gulf War, the Persian Gulf  
8 War, or Operation Desert Storm, but excluding any  
9 person who served on active duty for training  
10 only, unless discharged from such active duty for  
11 a service-connected disability;

12 (b) during a period of war or combat military operation  
13 other than a conflict, war or era listed in  
14 subparagraph (a) of this paragraph, beginning on the  
15 date of Congressional authorization, Congressional  
16 resolution, or Executive Order of the President of the  
17 United States, for the use of the Armed Forces of the  
18 United States in a war or combat military operation,  
19 if such war or combat military operation lasted for a  
20 period of ninety (90) days or more, for a person who  
21 served, and only for the period served, in the area of  
22 responsibility of the war or combat military  
23 operation, but excluding a person who served on active  
24 duty for training only, unless discharged from such

1 active duty for a service-connected disability, and  
2 provided that the burden of proof of military service  
3 during this period shall be with the member, who must  
4 present appropriate documentation establishing such  
5 service.

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

16 (24) "Normal retirement date" means the date on which a member  
17 may retire with full retirement benefits as provided in Section 901  
18 et seq. of this title, but shall not be applicable to elected  
19 officials whose first service as an elected official occurs on or  
20 after the effective date of this act, and who participate in the  
21 defined contribution plan authorized by Section 2 of this act, such  
22 date being whichever occurs first with respect to other members of  
23 the retirement system:  
24

- 1 (a) the first day of the month coinciding with or  
2 following a member's sixty-second birthday,
- 3 (b) for any person who initially became a member prior to  
4 July 1, 1992, the first day of the month coinciding  
5 with or following the date at which the sum of a  
6 member's age and number of years of credited service  
7 total eighty (80); such a normal retirement date will  
8 also apply to any person who became a member of the  
9 sending system as defined in Section 901 et seq. of  
10 this title, prior to July 1, 1992, regardless of  
11 whether there were breaks in service after July 1,  
12 1992,
- 13 (c) for any person who became a member after June 30,  
14 1992, the first day of the month coinciding with or  
15 following the date at which the sum of a member's age  
16 and number of years of credited service total ninety  
17 (90),
- 18 (d) in addition to subparagraphs (a), (b) and (c) of this  
19 paragraph, the first day of the month coinciding with  
20 or following a member's completion of at least twenty  
21 (20) years of full-time-equivalent employment as:
- 22 (i) a correctional or probation and parole officer  
23 with the Department of Corrections and at the  
24 time of retirement, the member was a correctional

1 or probation and parole officer with the  
2 Department of Corrections, or

3 (ii) a correctional officer, probation and parole  
4 officer or fugitive apprehension agent with the  
5 Department of Corrections who is in such position  
6 on June 30, 2004, or who is hired after June 30,  
7 2004, and who receives a promotion or change in  
8 job classification after June 30, 2004, to  
9 another position in the Department of  
10 Corrections, so long as such officer or agent has  
11 at least five (5) years of service as a  
12 correctional officer, probation and parole  
13 officer or fugitive apprehension agent with the  
14 Department, has twenty (20) years of full-time-  
15 equivalent employment with the Department and was  
16 employed by the Department at the time of  
17 retirement, or

18 (iii) a firefighter with the Oklahoma Military  
19 Department either employed for the first time on  
20 or after July 1, 2002, or who was employed prior  
21 to July 1, 2002, in such position and who makes  
22 the election authorized by division (2) of  
23 subparagraph b of paragraph (8) of subsection A  
24 of Section 915 of this title and at the time of

1 retirement, the member was a firefighter with the  
2 Oklahoma Military Department, and such member has  
3 at least twenty (20) years of credited service  
4 upon which the two and one-half percent (2 1/2%)  
5 multiplier will be used in calculating the  
6 retirement benefit,

7 (e) for those fugitive apprehension agents who retire on  
8 or after July 1, 2002, the first day of the month  
9 coinciding with or following a member's completion of  
10 at least twenty (20) years of full-time-equivalent  
11 employment as a fugitive apprehension agent with the  
12 Department of Corrections and at the time of  
13 retirement, the member was a fugitive apprehension  
14 agent with the Department of Corrections, or

15 (f) for any member who was continuously employed by an  
16 entity or institution within The Oklahoma State System  
17 of Higher Education and whose initial employment with  
18 such entity or institution was prior to July 1, 1992,  
19 and who without a break in service of more than thirty  
20 (30) days became employed by an employer participating  
21 in the Oklahoma Public Employees Retirement System,  
22 the first day of the month coinciding with or  
23 following the date at which the sum of the member's  
24

1           age and number of years of credited service total  
2           eighty (80);

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

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

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

11           (28) "Retirant" or "retiree" means a member who has retired  
12 under the System;

13           (29) "Retirement benefit" means a monthly income with benefits  
14 accruing from the first day of the month coinciding with or  
15 following retirement and ending on the last day of the month in  
16 which death occurs or the actuarial equivalent thereof paid in such  
17 manner as specified by the member pursuant to Section 901 et seq. of  
18 this title or as otherwise allowed to be paid at the discretion of  
19 the Board or the distribution from a defined contribution plan  
20 account as provided by Section 2 of this act;

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

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

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

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

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

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

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

20 SECTION 4. AMENDATORY 74 O.S. 2001, Section 913.4, as  
21 last amended by Section 2, Chapter 435, O.S.L. 2010 (74 O.S. Supp.  
22 2010, Section 913.4), is amended to read as follows:

23 Section 913.4 A. 1. An For an elected official whose initial  
24 service as an elected official occurs prior to the effective date of

1 this act, an elected official may elect to participate in the System  
2 and if he or she elects to do so shall have the option of  
3 participating at any one of the computation factors set forth in  
4 ~~paragraphs~~ paragraph 3 or 4 of this subsection and will receive  
5 retirement benefits in accordance with the computation factor  
6 chosen. The election on participation in the System must be in  
7 writing, must specify the computation factor chosen, and must be  
8 filed with the System within ninety (90) days after the elected  
9 official takes office. The election to participate and the election  
10 of a computation factor shall be irrevocable. Reelection to the  
11 same office will not permit new elections. Failure of an elected  
12 official to file such election form within the ninety-day period  
13 shall be deemed an irrevocable election to participate in the System  
14 at the maximum computation factor.

15 2. Contributions and benefits will be based upon the elected  
16 official's annual compensation as defined in Section 902 of this  
17 title. Employer and elected official contributions shall be  
18 remitted at least monthly, or as the Board may otherwise provide, to  
19 the System for deposit in the Oklahoma Public Employees Retirement  
20 Fund. Effective July 1, 1994, and thereafter, the participating  
21 employer shall contribute as provided in Section 920 of this title.

22 3. Except as provided in paragraph 4 of this subsection,  
23 effective July 1, 1994, the computation factor selected and the  
24

1 corresponding elected official contribution rate shall be as  
 2 follows:

3	Elected official	Computation	Alternate
4	Contribution Rate	Factor	Formula
5	4.5%	1.9%	\$12.50
6	6%	2.5%	\$20.00
7	7.5%	3.0%	\$25.00
8	8.5%	3.4%	\$27.50
9	9%	3.6%	\$30.00
10	10%	4.0%	\$40.00

11 4. Elected officials who are first elected or appointed to an  
 12 elected office on or after November 1, 2010, but prior to the  
 13 effective date of this act, shall elect a computation factor of  
 14 either 1.9% or 4%. The elected official contribution rate for the  
 15 1.9% computation factor is currently 4.5% and the contribution rate  
 16 for the 4% computation factor is currently 10%. All other  
 17 computation factors and contribution rates set forth in paragraph 3  
 18 of this subsection shall not be available to any person first  
 19 elected or appointed to an elected office on or after November 1,  
 20 2010.

21 5. The computation factors and corresponding elected official  
 22 contribution rates provided for in paragraphs 3 and 4 of this  
 23 subsection shall be based on the entire compensation as an elected  
 24

1 official subject to the definition and maximum compensation levels  
 2 as set forth in paragraph (9) of Section 902 of this title.

3 B. The normal retirement date for an elected official shall be  
 4 the first day of the month coinciding with or following the  
 5 official's sixtieth birthday or the first day of the month  
 6 coinciding with or following the date at which the sum of the  
 7 elected official's age and number of years of credited service total  
 8 eighty (80). Any elective official who has a minimum of ten (10)  
 9 years' participating service may retire under the early retirement  
 10 provisions of this act, including those electing a vested benefit  
 11 and shall receive an adjustment of annual benefits in accordance  
 12 with the following percentage schedule:

Age	Percentage of Normal Retirement Benefits
60	100%
59	94%
58	88%
57	82%
56	76%
55	70%

21 C. 1. Any elected official shall receive annual benefits  
 22 computed based upon the computation factor selected multiplied by  
 23 the member's highest annual compensation received as an elected  
 24 official prior to retirement or termination of employment multiplied

1 by the number of years of credited service. No elected official  
2 shall retire using such highest annual compensation unless the  
3 elected official has made the required election and has paid the  
4 required contributions on such salary.

5 2. The retirement benefit may be computed pursuant to the  
6 provisions of paragraph (1) of subsection A of Section 915 of this  
7 title if the benefit would be higher. Elected officials who have a  
8 vested benefit prior to July 1, 1980, may elect to receive annual  
9 benefits based on the alternate formula provided above. Such annual  
10 benefits shall be paid in equal monthly installments.

11 3. Elected officials who become members of the Oklahoma Public  
12 Employees Retirement System on or after August 22, 2008, but prior  
13 to the effective date of this act, will receive retirement benefits  
14 in accordance with the computation factor selected pursuant to  
15 subsection A of this section multiplied by the member's highest  
16 annual compensation received as an elected official and only for  
17 those years of credited service the member served as an elected  
18 official. If such elected official has participating service as a  
19 nonelected member, then such nonelected service shall be computed  
20 separately pursuant to the provisions of paragraph (1) of subsection  
21 A of Section 915 of this title with the final benefit result added  
22 to the final benefit result for elected service. In no event shall  
23 the elected official be entitled to apply the computation factor  
24 selected pursuant to subsection A of this section or the

1 compensation received as an elected official to the computation of  
2 nonelected service.

3 4. Elected officials who are first elected or appointed to an  
4 elected office on or after August 22, 2008, may not receive a  
5 maximum benefit greater than their single highest annual  
6 compensation received as a member of the Oklahoma Public Employees  
7 Retirement System.

8 D. Any elected official making an election to participate at a  
9 computation factor less than the maximum and later selecting a  
10 higher computation factor shall contribute to the System a sum equal  
11 to the amount which the elected official would have contributed if  
12 the elected official had made such election at the time the elected  
13 official first became eligible, plus interest as determined by the  
14 Board, in order to receive the additional benefits for all service  
15 as an elected official; otherwise, the additional benefits shall be  
16 applicable only to service for which the elected official pays the  
17 appropriate percent of contributions to the System.

18 E. The surviving spouse of a deceased elected official having  
19 at least six (6) years of participating service shall be entitled to  
20 receive survivor benefits in the amount herein prescribed, if  
21 married to the decedent continuously for a period of at least three  
22 (3) years immediately preceding the elected official's death.  
23 Provided the elected official had met the service requirements,  
24 survivor benefits shall be payable when the deceased member would

1 have met the requirements for normal or early retirement. The  
2 amount of the benefits the surviving spouse may receive shall be  
3 fifty percent (50%) of the amount of benefits the deceased elected  
4 official was receiving or will be eligible to receive. Remarriage  
5 of a surviving spouse shall disqualify the spouse for the receipt of  
6 survivor benefits. Elected officials may elect a retirement option  
7 as provided in Section 918 of this title in lieu of the survivors  
8 benefit provided above.

9 F. Any elected official who served in the Armed Forces of the  
10 United States, as defined in paragraph (23) of Section 902 of this  
11 title, prior to membership in the Oklahoma Public Employees  
12 Retirement System shall be granted credited service of not to exceed  
13 five (5) years for those periods of active military service during  
14 which the elected official was a war veteran.

15 G. Any one appointed or elected to an elected position after  
16 July 1, 1990, shall not be eligible to receive benefits as provided  
17 in this section until such person has participated as an elected  
18 official for six (6) years.

19 H. Elected officials who terminate participation in the System  
20 and who have a minimum of six (6) years of participating service  
21 shall be entitled to elect a vested benefit and shall be entitled to  
22 the retirement options as provided in Section 918 of this title in  
23 lieu of the survivors benefit provided above.

24

1 SECTION 5. AMENDATORY 74 O.S. 2001, Section 920, as last  
2 amended by Section 1, Chapter 470, O.S.L. 2010 (74 O.S. Supp. 2010,  
3 Section 920), is amended to read as follows:

4 Section 920. (1) Effective July 1, 1994, every state agency  
5 which is a participating employer shall contribute to the System an  
6 amount equal to eleven and one-half percent (11 1/2%) of the monthly  
7 compensation of each member, but not in excess of Forty Thousand  
8 Dollars (\$40,000.00).

9 (2) Effective July 1, 1995, every state agency which is a  
10 participating employer shall contribute to the System an amount  
11 equal to eleven and one-half percent (11 1/2%) of the monthly  
12 compensation of each member, not to exceed the allowable annual  
13 compensation as defined in paragraph (9) of Section 902 of this  
14 title.

15 (3) Effective July 1, 1996, every state agency which is a  
16 participating employer shall contribute to the System an amount  
17 equal to twelve percent (12%) of the monthly compensation of each  
18 member, not to exceed the allowable annual compensation defined in  
19 paragraph (9) of Section 902 of this title.

20 (4) Effective July 1, 1999, and through the fiscal year ending  
21 June 30, 2005, every state agency which is a participating employer  
22 shall contribute to the System an amount equal to ten percent (10%)  
23 of the monthly compensation of each member, not to exceed the  
24

1 allowable annual compensation defined in paragraph (9) of Section  
2 902 of this title.

3 (5) (a) Effective July 1, 2005, every state agency which is a  
4 participating employer shall contribute an amount to  
5 the System equal to a percentage of monthly  
6 compensation of each member, not to exceed the  
7 allowable annual compensation defined in paragraph (9)  
8 of Section 902 of this title as follows:

9	July 1, 2005 - June 30, 2006	11 1/2%
10	July 1, 2006 - June 30, 2007	12 1/2%
11	July 1, 2007 - June 30, 2008	13 1/2%
12	July 1, 2008 - June 30, 2009	14 1/2%
13	July 1, 2009 - June 30, 2011	15 1/2%
14	July 1, 2011 - June 30, 2012	
15	and each year thereafter	16 1/2%

16 (b) On and after the effective date of this act, with  
17 respect to the contribution made for an elected  
18 official, the applicable state or local governmental  
19 entity shall make payment of the full amount of the  
20 employer contribution as required by the provisions of  
21 this section to the Oklahoma Public Employees  
22 Retirement System. The Oklahoma Public Employees  
23 Retirement System shall make any required matching  
24 payment based on the election of the official pursuant

1           to subsection D of Section 2 of this act to the  
2           defined contribution plan account established or  
3           maintained for the benefit of the elected official.  
4           The balance of the employer contribution amount with  
5           respect to the elected official shall be deposited in  
6           the same manner as other employer contribution amounts  
7           to the credit of the defined benefit plan created  
8           pursuant to Section 903 of this title, qualified  
9           pursuant to Section 401(a) of the Internal Revenue  
10           Code of 1986, as amended, and which is maintained for  
11           the benefit of other members of the System.

12           (6) The Board shall certify, on or before November 1 of each  
13 year, to the Office of State Finance an actuarially determined  
14 estimate of the rate of contribution which will be required,  
15 together with all accumulated contributions and other assets of the  
16 System, to be paid by each participating employer to pay all  
17 liabilities which shall exist or accrue under the System, including  
18 amortization of the past service cost over a period of not to exceed  
19 forty (40) years from June 30, 1987, and the cost of administration  
20 of the System, as determined by the Board, upon recommendation of  
21 the actuary.

22           (7) The Office of State Finance and the Governor shall include  
23 in the budget and in the budget request for appropriations the sum  
24 required to satisfy the state's obligation under this section as

1 certified by the Board and shall present the same to the Legislature  
2 for allowance and appropriation.

3 (8) Each other participating employer shall appropriate and pay  
4 to the System a sum sufficient to satisfy the obligation under this  
5 section as certified by the Board.

6 (9) Each participating employer is hereby authorized to pay the  
7 employer's contribution from the same fund that the compensation for  
8 which said contribution is paid from or from any other funds  
9 available to it for such purpose.

10 (10) Forfeitures arising from severance of employment, death or  
11 for any other reason may not be applied to increase the benefits any  
12 member would otherwise receive under the System's law. However,  
13 forfeitures may be used to reduce an employer's contribution.

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