

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2321

By: McDaniel (Randy) of the
House

and

Anderson of the Senate

COMMITTEE SUBSTITUTE

An Act relating to public retirement systems;
amending 74 O.S. 2011, Section 913, which relates to
the Oklahoma Public Employees Retirement System;
modifying sick leave crediting provisions; modifying
provisions related to rounding for purposes of
benefit computation; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2011, 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

1 employed with a participating employer on such entry date, provided
2 that any member who has retired before the passage of Section 901 et
3 seq. of this title, shall not receive retirement benefits
4 retroactively for such prior service. Provided, that at such time
5 that an employer becomes a participating employer on or after
6 January 1, 1965, and before January 1, 1975, each member and each
7 retirant, upon making proper written application therefor, shall
8 receive prior service credit for service with such employer in the
9 same manner as if such participating employer had been a
10 participating employer on the date first eligible to become a
11 participating employer; and increased benefits attributable to such
12 increased prior service credit shall commence with the next monthly
13 benefit payment due following receipt and approval of such
14 application by the Board of Trustees. No prior service shall be
15 granted, however, for periods of service in which the employee made
16 contributions which he or she subsequently withdrew, unless he or
17 she has complied with the provisions of subsection (5) of Section
18 917 of this title. The burden of proof regarding prior service
19 shall be with the member and shall be documented in such manner as
20 the Board may direct;

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

3 3. Any member who served in the Armed Forces of the United
4 States, as defined in paragraph (23) of Section 902 of this title,
5 prior to membership in the Oklahoma Public Employees Retirement
6 System shall be granted prior service credit, not to exceed five (5)
7 years, for those periods of active military service during which he
8 or she was a war veteran. For a member of the System hired on or
9 after July 1, 2003, if the military service credit authorized by
10 this paragraph is used to compute the retirement benefit of the
11 member and the member retires from the System, such military service
12 credit shall not be used to compute the retirement benefit in any
13 other retirement system created pursuant to the Oklahoma Statutes
14 and the member may receive credit for such service only in the
15 retirement system from which the member first retires;

16 4. An elective state, county, city or town official who is
17 ineligible for membership as a result of any applicable state law or
18 constitutional provision making him or her ineligible solely because
19 of his or her being such an official at the time of his or her
20 eligibility for membership at the time his or her employer becomes a
21 participating employer shall nevertheless not forfeit the prior
22 service credit to which he or she would be entitled except for such
23 ineligibility, provided that he or she either:

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- 1 a. becomes an employee of a participating employer within
2 four (4) calendar months of the expiration of his or
3 her term of office current at the time of his or her
4 eligibility except for his or her being an elective
5 state or county official, or
- 6 b. within a period of four (4) years after the expiration
7 of his or her term of office current at the time of
8 his or her eligibility except for his or her being an
9 elective state or county official, is elected as a
10 state or county official and thereupon becomes a
11 member of the System, or
- 12 c. has completed ten (10) years of credited service as of
13 the date of his or her eligibility for membership
14 except for his or her being an elective state or
15 county official;

16 5. Beginning July 1, 1965, all employees of the Department of
17 Human Services shall participate in the Oklahoma Public Employees
18 Retirement System to the same extent as other employees of
19 participating employers in such System. Provided, that any employee
20 performing teaching services in the Oklahoma School for the Deaf or
21 the Oklahoma School for the Blind may elect to participate in the
22 Teachers' Retirement System of Oklahoma in lieu of the Oklahoma
23 Public Employees Retirement System; and any other employee at each

1 such institution or any other institution under the jurisdiction of
2 the Department of Human Services, participating in the Teachers'
3 Retirement System of Oklahoma, may elect to continue to participate
4 in such system in lieu of the Oklahoma Public Employees Retirement
5 System. All employees who shall have participated in the Teachers'
6 Retirement System of Oklahoma and not continuing therein shall have
7 the right to withdraw their membership from the Teachers' Retirement
8 System of Oklahoma on the same terms as other members withdrawing
9 from such System before retirement. Provided, all persons employed
10 at the Oklahoma School for the Blind and Oklahoma School for the
11 Deaf on June 30, 1965, who became subject to the Oklahoma Public
12 Employees Retirement System, on July 1, 1965, shall receive credit
13 for prior service and be eligible for participation, regardless of
14 age;

15 6. A member employed as a temporary employee by the Legislative
16 Service Bureau or its predecessors, the State Senate or the House of
17 Representatives for the full duration of a regular legislative
18 session prior to the member's eligibility for membership in the
19 System shall receive six (6) months of prior service credit for each
20 such full regular legislative session if the employee is employed by
21 the Legislative Service Bureau or its predecessors, the State Senate
22 or the House of Representatives as either a full-time or temporary
23 employee for a minimum of six (6) full regular legislative sessions

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1 beginning January 1, 1983. For purposes of this subsection, the
2 determination of whether an employee is employed for the full
3 duration of a regular legislative session shall be made by the
4 Legislative Service Bureau if such employee is employed by the
5 Legislative Service Bureau, the State Senate if such employee is
6 employed by the State Senate, or by the House of Representatives if
7 such employee is employed by the House of Representatives;

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

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

22 a. the member was employed by the participating employer
23 immediately prior to and during the period of absence,

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1 b. the member must notify the System in writing not later
2 than four (4) months after the member's return to his
3 or her job duties with the participating employer, or
4 termination of employment with the participating
5 employer, or termination of the temporary total
6 disability benefits, whichever is earlier, of the
7 member's desire to receive participating service
8 credit for the period of absence,

9 c. the participating employer must certify to the System
10 in writing the dates during which temporary total
11 disability benefits payments were paid to the member,
12 and

13 d. the member and the participating employer shall each
14 pay their respective contributions required for the
15 period of absence without interest within sixty (60)
16 days of invoicing by the System, or with interest of
17 seven and one-half percent (7 1/2%) compounded
18 annually if paid after said sixty (60) days.

19 B. Participating service shall be credited as follows:

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

3 2. Leaves of absence shall not count as a break in continuous
4 employment provided the member leaves his or her accumulated
5 contribution on deposit with the fund; however, the leaves of
6 absence shall not be credited except that involuntary furloughs
7 established by Office of Personnel Management rules, involuntary
8 furloughs of employees of a district attorney conducted in
9 substantial compliance with the rules of the Office of Personnel
10 Management as certified by the District Attorneys Council,
11 involuntary furloughs of employees pursuant to a furlough plan
12 adopted by the President Pro Tempore of the Senate or the Speaker of
13 the House of Representatives as authorized in Section 840-5.1 of
14 this title and involuntary furloughs of employees authorized by the
15 Oklahoma Supreme Court shall be credited;

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

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

9 5. Termination of employment with a participating employer
 10 followed by employment with the same or another participating
 11 employer within four (4) calendar months shall not constitute a
 12 break in continuous employment; provided, that such period while not
 13 employed shall not be credited as participating service;

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

18 Employee accumulated contributions:

19	More than \$1.00 up to \$500	= 1 year participating service
20	More than \$500 up to \$1,000	= 2 years participating service
21	More than \$1,000 up to \$1,500	= 3 years participating service
22	More than \$1,500 up to \$2,000	= 4 years participating service
23	More than \$2,000	= 5 years participating service

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

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

7 7. a. The total participating service credit of a member who
8 retires or terminates employment and elects a vested
9 benefit shall include not to exceed one hundred thirty
10 (130) days of unused sick leave accumulated subsequent
11 to August 1, 1959, during the member's employment with
12 any participating employer. Such credit shall be
13 added in terms of whole months. Twenty (20) days of
14 unused sick leave shall equal one (1) month for
15 purposes of participating service credit. If unused
16 sick leave entitles a member to an additional year of
17 service credit, the member's employer shall reimburse
18 the System for the cost of funding the additional
19 reserve. Each participating employer shall provide
20 the System with adequate and timely information
21 necessary to determine additional benefits and its
22 cost under this paragraph. This ~~paragraph~~

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1 subparagraph shall apply to members retiring or
2 vesting on or after July 1, 1984.

3 b. For members who join the System on or after November
4 1, 2012, unused sick leave as forth in subparagraph a
5 of this paragraph shall be credited at the same rate
6 but not used to round up to another year. Instead,
7 any additional months of unused sick leave credit
8 shall be added to other service credit without
9 rounding.

10 C. In determining the number of years of credited service, a
11 fractional year of six (6) months or more shall be considered as one
12 (1) year, and less than six (6) months shall be disregarded. For
13 members who join the System on or after November 1, 2012, the number
14 of years of credited service shall be based on actual years and
15 months of credited service without rounding up or down.

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

1 service credit, the member shall pay the amount determined by the
2 Board pursuant to Section 913.5 of this title.

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

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

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1 allowed in accordance with Section 414(u) of the federal Internal
2 Revenue Code.

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

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

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

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

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

13 (1) for members who have vested with the sending
14 system, determine the present value of the
15 member's earned benefits attributable to the
16 years of service sought to be transferred,
17 discounted according to the member's age at the
18 time of transfer and computed as of the earliest
19 age at which the member would be able to retire.
20 Said computation shall assume an unreduced
21 benefit and be computed using interest and
22 mortality assumptions consistent with the
23 actuarial assumptions adopted by the Board of

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1 Trustees for purposes of preparing the annual
2 actuarial evaluation but shall not make any
3 projections regarding future salary. For vested
4 employees the sending system shall use the
5 product of this calculation for purposes of
6 determining the transfer fee to be paid by the
7 employee under subparagraph c of this paragraph
8 so long as it is greater than the product of the
9 calculation in this division, and

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

1 paragraph and any transfer fee to be paid by the
2 members under subparagraph d of this paragraph.

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

21 c. The sending system shall, within sixty (60) days from
22 the date notification of an intent to transfer is
23 received by the sending system, transfer to the
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1 receiving system the amount determined in subparagraph
2 a of this paragraph. Except, if the cost under
3 subparagraph a of this paragraph for the same years of
4 service to the sending system is greater than the
5 actuarial value of the incremental benefit in the
6 receiving system, as established in subparagraph b of
7 this paragraph, the sending system shall send the
8 receiving system an amount equal to the actuarial
9 value of the incremental projected benefit in the
10 receiving system.

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

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

1 Such an election shall be made in writing, filed with
2 the System prior to receiving the credit provided for
3 in paragraph 1 of this subsection, and shall be
4 irrevocable.

5 3. Within sixty (60) days of successfully completing all of the
6 requirements for transfer under this subsection, the sending system
7 shall pay the receiving system any amount due under this subsection.
8 Within sixty (60) days of successfully completing all of the
9 requirements for transfer under this subsection, the member shall
10 pay the receiving system any amount due under this subsection. In
11 the event that the member is unable to pay the transfer fee provided
12 for in this subsection by the due date, the Board of Trustees of the
13 receiving system shall permit the member to amortize the transfer
14 fee over a period not to exceed sixty (60) months. Said payments
15 shall be made by payroll deductions unless the Board of Trustees
16 permits an alternate payment source. The amortization shall include
17 interest in an amount not to exceed the actuarially assumed interest
18 rate adopted by the Board of Trustees for investment earnings each
19 year. Any member who ceases to make payment, terminates, retires or
20 dies before completing the payments provided for in this section
21 shall receive prorated service credit for only those payments made,
22 unless the unpaid balance is paid by said member, his or her estate
23 or successor in interest within six (6) months after said member's

1 death, termination of employment or retirement, provided no
2 retirement benefits shall be payable until the unpaid balance is
3 paid, unless said member or beneficiary affirmatively waives the
4 additional six-month period in which to pay the unpaid balance.

5 4. Years of service transferred pursuant to this subsection
6 shall be used both in determining the member's retirement benefit
7 and in determining the years of service for retirement and/or
8 vesting purposes. Years of service rendered as a member of the
9 Teachers' Retirement System of Oklahoma prior to July 1, 1992, if
10 any, shall be deemed to be years of service rendered as a member of
11 the Oklahoma Public Employees Retirement System prior to July 1,
12 1992, and shall qualify such person as a member of the Oklahoma
13 Public Employees Retirement System before July 1, 1992.

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

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1 their contributions shall be returned to the member. The member's
2 rights and obligations regarding any service credit reestablished in
3 the sending system due to a failure to satisfy the requirements of
4 this subsection shall be determined by the sending system in
5 accordance with Section 17-101 et seq. of Title 70 of the Oklahoma
6 Statutes.

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

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

21 H. 1. A member of the Teachers' Retirement System of Oklahoma
22 whose last service with the Teachers' Retirement System of Oklahoma
23 was with an entity or institution within The Oklahoma State System

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

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

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1 other public retirement system, notwithstanding the
2 years of service sought to be transferred under this
3 subsection.

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

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

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

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

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

13 SECTION 2. This act shall become effective November 1, 2012.

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15 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM AND
16 FINANCIAL SERVICES, dated 02/23/2012 - DO PASS, As Amended and
Coauthored.

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