

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

SENATE BILL 840

By: Aldridge

AS INTRODUCED

An Act relating to public employees benefits;  
amending 74 O.S. 2001, Section 904, which relates to  
proceedings against the Oklahoma Public Employees  
Retirement System; specifying that certain  
proceedings shall be brought in Oklahoma County;  
authorizing hearing examiner to conduct certain  
hearing and make certain findings; requiring the  
Board to enter final orders in certain matters;  
granting the Board certain jurisdiction; amending  
Section 28, Chapter 536, O.S.L. 2004 (74 O.S. Supp.  
2010, Section 920B), which relates to remittance of  
retirement contributions; specifying that employee  
contributions shall be considered trust funds and  
shall be promptly remitted; increasing amount of  
certain late charge; amending 74 O.S. 2001, Section  
1701, which relates to deferred compensation;  
designating the deferred compensation program as the  
Oklahoma State Employees Deferred Compensation Plan;  
requiring certain state employees to be enrolled in  
the deferred compensation plan unless the employee  
makes an election not to be enrolled; repealing 74  
O.S. 2001, Section 1701.1, which relates to untimely  
posting of certain deferred compensation  
contributions; providing an effective date; and  
declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 904, is  
amended to read as follows:

1       Section 904. ~~(1)~~ A. The Oklahoma Public Employees Retirement  
2 System may sue and be sued in its official name, but its officers,  
3 employees, and agents shall not be personally liable for acts of the  
4 System. The service of all legal process and of all notices which  
5 may be required to be in writing, whether legal proceedings or  
6 otherwise, shall be had on the executive director at his or her  
7 office. All actions or proceedings directly or indirectly against  
8 the System shall be brought in Oklahoma County, including petitions  
9 for judicial review of individual proceedings under the  
10 Administrative Procedures Act despite any other provision to the  
11 contrary.

12       ~~(2)~~ ~~(a)~~ B. 1. Any ~~person~~ member or participating employer, or  
13 in the case of a deceased member, a joint annuitant or beneficiary,  
14 aggrieved by any order or decision of the ~~Board~~ System made without  
15 a hearing may, within thirty (30) days after notice of the order or  
16 decision of the ~~Board~~ System, make written request to the Oklahoma  
17 Public Employees Retirement System Board of Trustees for a hearing  
18 thereon. The Board ~~shall hear such party or parties at its next~~  
19 regular meeting or at a special meeting within ninety (90) days  
20 after receipt of such request and shall give not less than ten (10)  
21 days' written notice of the time and place of the hearing. Within  
22 fifteen (15) days after such hearing the Board shall affirm,  
23 reverse, or modify its previous action, specifying the reasons  
24 therefor, and written notice of the action taken by the Board shall

1 ~~be forwarded immediately to the interested party by the executive~~  
2 director may refer any such request to a hearing examiner to conduct  
3 the hearing and make recommended findings of fact and conclusions of  
4 law to the Board. The Board shall enter final orders in all such  
5 matters which shall be considered by the Board under the provisions  
6 of the Administrative Procedures Act.

7 ~~(b)~~ 2. Nothing contained in ~~this act~~ Section 901 et seq. of  
8 this title shall require the observance at any hearing of the Board  
9 or a hearing examiner designated by the Board of formal rules of  
10 pleading or evidence.

11 ~~(3)~~ 3. The Board shall have jurisdiction under the  
12 Administrative Procedures Act relating to any disputes arising from  
13 the administration of the retirement or savings plans administered  
14 by the Board, including disputes involving a member, joint  
15 annuitant, beneficiary or participating employer of the System.

16 4. Upon written request reasonably made by a person affected by  
17 the hearing at such person's expense, the Board shall cause a full  
18 stenographic record of the proceedings to be made by a competent  
19 court reporter. If transcribed, such record shall be a part of the  
20 Board's record of the hearing, and a copy of such stenographic  
21 record shall be furnished to any other party having a direct  
22 interest therein at the request and expense of such party.

1 SECTION 2. AMENDATORY Section 28, Chapter 536, O.S.L.  
2 2004 (74 O.S. Supp. 2010, Section 920B), is amended to read as  
3 follows:

4 Section 920B. A. All participating employers shall remit to  
5 the Oklahoma Public Employees Retirement System all required  
6 retirement contributions due on a monthly basis. All employee  
7 contributions withheld shall be considered trust funds held by the  
8 employer on behalf of the employee and shall be promptly remitted to  
9 the System pursuant to subsection B of this section.

10 B. For non-state agency employers, all required employer and  
11 employee contributions and supporting documentation are due and must  
12 be received by the System on or before the fifteenth day of the  
13 month following the month for which the contributions are due. For  
14 state agency employers, all required employer and employee  
15 contributions and supporting documentation are due and must be  
16 received by the System on or before the fifteenth day following the  
17 last day of the payroll period for which said contributions are due.

18 C. Employer and employee contributions remitted to the System  
19 after thirty (30) days from the ~~above~~ due dates set forth in  
20 subsection B of this section shall be subject to a monthly late  
21 charge of ~~one and one-half percent (1.5%)~~ three percent (3%) of the  
22 unpaid balance to be paid by the employer to the System.

23 SECTION 3. AMENDATORY 74 O.S. 2001, Section 1701, is  
24 amended to read as follows:

1 Section 1701. A. The State of Oklahoma, its agencies and the  
2 political subdivisions thereof and the employees of a duly  
3 constituted authority or instrumentality of the State of Oklahoma,  
4 its agencies and the political subdivisions thereof, municipalities  
5 and any local governmental entity may enter into a written agreement  
6 to defer a portion of any employee's compensation which is derived  
7 from a state or local government. The compensation to be deferred  
8 shall be subject to any federal limitations imposed by the Internal  
9 Revenue Code, Sections 1 et seq. of Title 26 of the United States  
10 Code. The state or local governments may, under a written  
11 agreement, invest the deferred compensation in life insurance,  
12 annuities, United States Agency or Treasury Bills, Notes or Bonds,  
13 savings accounts and/or mutual funds with a company licensed or  
14 eligible to do business in the state or in a contract or commingled  
15 trust or program. Deferred compensation programs shall exist and be  
16 in addition to, and not be a part of, any existing retirement,  
17 pension or Social Security system provided for the benefit of state  
18 and local government employees.

19 B. The Oklahoma Public Employees Retirement System Board of  
20 Trustees shall offer a deferred compensation program and shall be  
21 responsible for establishing rules ~~and regulations~~ and participation  
22 agreement forms for ~~said~~ the program. The program shall be known as  
23 the Oklahoma State Employees Deferred Compensation Plan. The  
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1 Oklahoma State Employee Benefits Council shall communicate this  
2 program with eligible participants.

3 C. The Office of the Attorney General ~~of this state~~ shall be  
4 responsible for interpreting all applicable laws and fiduciary  
5 responsibilities for the deferred compensation programs of state and  
6 local governments if the programs do not maintain in-house counsel.

7 D. Prior to January 1, 1991, the ~~Board of Trustees of the~~  
8 Oklahoma Public Employees Retirement System Board of Trustees, the  
9 Plan Administrator, and the Office of State Finance shall jointly  
10 develop a system that provides for state employee participation  
11 amounts in the deferred compensation plan be posted and transferred  
12 to the investment option selected by the state employee within ten  
13 (10) business days of the payday, the end of the payroll period, or  
14 the process date for supplemental payrolls, whichever is later.

15 E. Any state employee as defined in subsection C of Section  
16 1707 of this title, who is employed after the effective date of this  
17 act, shall be enrolled in the deferred compensation plan unless the  
18 employee elects not to be enrolled within thirty (30) days of the  
19 employee's eligibility to participate in the public retirement  
20 system in this state. Unless otherwise specified by the state  
21 employee, the employee shall be enrolled and participate at the  
22 minimum deferral amount as set forth in the Oklahoma State Employees  
23 Deferred Savings Incentive Plan in Section 1707 of this title.

1 SECTION 4. REPEALER 74 O.S. 2001, Section 1701.1, is  
2 hereby repealed.

3 SECTION 5. This act shall become effective July 1, 2011.

4 SECTION 6. It being immediately necessary for the preservation  
5 of the public peace, health and safety, an emergency is hereby  
6 declared to exist, by reason whereof this act shall take effect and  
7 be in full force from and after its passage and approval.

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