HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

ENGROSSED SENATE
BILL NO. 1701

By: Schulz and Justice of the Senate

and

DeWitt of the House

COMMITTEE SUBSTITUTE

An Act relating to agriculture; amending 2 O.S. 2011, Sections 5-60.10, 5-60.11, 5-60.12, 5-60.13, 5-60.14, 5-60.15, 5-60.16, 5-60.18, 5-60.19, 5-60.20, 5-60.21, 5-60.22, 5-60.23, 5-60.24, 5-60.26, 5-60.27, 5-60.28, 5-60.29, 5-60.30, 5-60.31, 5-60.32, 5-60.33 and 5-60.34, which relate to the Oklahoma Agricultural Commodity Referendum Act; renaming act; expanding purpose of act; modifying certain board status; modifying definitions; authorizing certain organizations to petition the Commissioner to replace certain boards; requiring certain information in petition; directing certain organizations to follow certain referendum notice, election, ballot, exemption, contest of election, election result and certification requirements; modifying references to board; modifying citation; modifying powers and duties of certain board; adding powers and duties of certain board; removing budget proposal and approval requirements; requiring certain board to provide annual budget and report to Commissioner; authorizing audits on certain schedule; modifying reference to certain grant; directing certain organizations to follow certain assessment collection requirements; directing certain organizations to follow certain assessment refund requirements; modifying references to certain board; replacing certain secretary-treasurer with certain organization; directing certain organizations to follow certain assessment

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and referendum requirements; modifying reference to certain assessment; providing for applicability of certain act; providing that certain persons remain members of certain retirement system and eligible employees; requiring certain organization to pay certain contributions; excluding certain persons to participate in certain retirement system; requiring certain organization to recognize certain employee accumulated sick and annual leave; providing requirements for accrual, inclusion and reimbursement of certain leave; transferring certain property to certain organization upon approval; providing for status of certain property; amending 2 O.S. 2011, Section 18-50, which relates to the Oklahoma Peanut Act; modifying citation; dissolving the Oklahoma Peanut Commission when certain circumstances are met; amending 2 O.S. 2011, Section 18-300, which relates to the Oklahoma Wheat Resources Act; modifying citation; dissolving the Oklahoma Wheat Commission when certain circumstances are met; amending 74 O.S. 2011, Section 902, as last amended by Section 33, Chapter 254, O.S.L. 2013, which relates to the Oklahoma Public Employees Retirement System; modifying definition; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 2 O.S. 2011, Section 5-60.10, is amended to read as follows:

Section 5-60.10. This act shall be known and may be cited as the "Oklahoma Agricultural Commodity ~~Referendum~~ Act".

SECTION 2. AMENDATORY 2 O.S. 2011, Section 5-60.11, is amended to read as follows:

Section 5-60.11. A. The purpose of the Oklahoma Agricultural Commodity ~~Referendum~~ Act is ~~to~~:

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1. To authorize and prescribe the necessary procedures by which the producers of agricultural commodities grown in this state may establish agricultural commodity producers boards to finance programs devised to alleviate any circumstance or condition that serves to impede the production, marketing, research or use of agricultural commodities; and

2. To establish a procedure for an existing statutory commodity board to privatize and convert to a successor organization.

B. Agriculture commodity producers boards established pursuant to the Oklahoma Agricultural Commodity ~~Referendum~~ Act shall ~~not~~ be ~~agencies of the~~ state agencies for purposes of The Governmental Tort Claims Act and are exempt from taxation in the same manner and to the same extent as other state agencies. The boards shall not be considered state agencies for any other purpose.

SECTION 3. AMENDATORY 2 O.S. 2011, Section 5-60.12, is amended to read as follows:

Section 5-60.12. As used in the Oklahoma Agricultural Commodity ~~Referendum~~ Act:

1. "Agricultural commodity" means an agricultural commodity, horticultural commodity, silvicultural commodity, or agricultural product, horticultural product, viticulture, or silvicultural product, or bees and honey, planting seed, ~~rice~~, livestock or livestock product, or poultry or poultry product, produced in this state, either in its natural state or as processed by the producer;

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2. "Board" means an agricultural commodity producers board of a certified organization or a successor organization;

3. "Certified organization" means the agricultural commodity entity certified by the Oklahoma Department of Agriculture, Food, and Forestry to conduct a referendum;

4. "Commissioner" means the Commissioner of the State Department of Agriculture, Food, and Forestry;

~~4.~~ 5. "District" means a geographical area within the jurisdiction of a board;

6. "Person" means an individual, firm, corporation, association or any other business entity;

~~5.~~ 7. "Processor" means a person who:

a. is a purchaser, warehouseman, processor, or other commercial handler of an agricultural commodity, or

b. is engaged in the operation of packing, grading, selling, offering for sale or marketing any agricultural commodity in commercial quantities as defined in a marketing program, who as owner, agent, or otherwise, ships or causes agricultural commodities to be shipped;

~~6.~~ 8. "Producer" means a person engaged in the business of producing or causing to be produced for commercial purposes an agricultural commodity. The term "producer" includes the owner of a

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farm on which the commodity is produced and the owner's tenant or sharecropper;

~~7. "Person" means an individual, firm, corporation, association, or any other business entity;~~

~~8. "Secretary-treasurer" means the secretary-treasurer of a board;~~

9. "~~Certified~~ Successor organization" means the agricultural commodity entity ~~certified~~ approved by the Commissioner of the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry to ~~conduct a referendum~~ succeed an existing statutory commodity producers board; and

10. "Volume of production" shall be defined by the certified organization and can refer to units of product sold such as pounds, tons, bushels, gallons, flats, containers, packages, or other commonly recognized units of measure, square footage or acreage of production space or other appropriate measurement units, or number of production units such as trees, vines, head count of livestock or poultry, or other commonly recognized measurement units, or gross sales.

SECTION 4. AMENDATORY 2 O.S. 2011, Section 5-60.13, is amended to read as follows:

Section 5-60.13. A. 1. Any nonprofit organization authorized under the laws of this state representing the producers of an agricultural commodity may petition the Commissioner ~~of the State~~

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~~Department of Agriculture~~ for certification as the organization authorized to establish a new commodity producers board and conduct an assessment referendum pursuant to the Oklahoma Agricultural Commodity ~~Referendum~~ Act.

2. The petition shall state:

a. the reasons for and the purposes of the commodity producers board,

b. the number of board members and board organization,

c. propose either a six-member, nine-member, twelve-member or fifteen-member board and whether board members will be appointed by district or appointed at large,

d. the maximum assessment to be levied pursuant to an election, and

e. such other information required by the ~~commissioner~~ Commissioner;

3. The petition shall be signed by at least twenty percent (20%) of the commodity producers in the state or at least two hundred commodity producers, whichever is less.

B. 1. Any nonprofit organization authorized under the laws of this state representing the producers of an agricultural commodity may petition the Commissioner for approval as a successor organization authorized to replace an existing statutory commodity producers board.

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2. The petition shall:

a. state the existing statutory commodity producers board to be replaced,

b. provide the bylaws for review and approval by the Commissioner for the new nonprofit organization, and

c. provide any other information required by the Commissioner.

3. The petition shall be signed by a majority of the board members of the existing statutory commodity producers board.

4. Any new nonprofit organization petitioning the Commissioner may retain the name of the existing statutory commodity producers board.

C. 1. Within fifteen (15) days following the day on which a petition for certification is received, the Commissioner shall schedule a public hearing to consider the petition. The public hearing shall be scheduled no later than forty (40) days after receipt of the completed petition is received by the Department.

2. Upon the scheduling of the public hearing, the nonprofit organization shall provide for notification of interested commodity producers in the manner, method and locations required by the ~~State~~ Department ~~of Agriculture~~.

3. If the Commissioner determines that, on the basis of testimony presented at the public hearing, the petitioning organization is representative of the producers of the agricultural

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commodity and that the petition conforms to the purposes and provisions of the Oklahoma Agricultural Commodity ~~Referendum~~ Act, the Commissioner shall:

a. certify that the organization is representative of the producers of the commodity and is authorized to establish the commodity producers board and to conduct the board election and assessment referendum, or

b. approve the new nonprofit organization as a successor organization authorized to accept the statutory assessment.

SECTION 5. AMENDATORY 2 O.S. 2011, Section 5-60.14, is amended to read as follows:

Section 5-60.14. A. A certified organization that does not have a statutory assessment may establish a new commodity producers board and conduct an election of members to the commodity producers board for the commodity. The ballot shall also provide for a referendum of the producers of an agricultural commodity on the proposition of whether or not the producers shall levy an assessment on themselves to finance programs of research, disease and insect control, predator control, education, or promotion designed to encourage the production, marketing, and use of the commodity. The certified organization shall give public notice of:

1. The date, hours, and polling places for voting in the referendum and election;

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2. The estimated amount and basis of the assessment proposed to be collected;

3. Whether a producer exemption is to be allowed in accordance with Section ~~9~~ 5-60.18 of this ~~act~~ title; and

4. A description of the manner in which the assessment is to be collected and the proceeds administered and used.

B. The notice under subsection A of this section shall be published in one or more newspapers published and distributed within the boundaries described in the petition. The notice shall be published for not less than once a week for three (3) consecutive weeks, beginning at least sixty (60) days before the date of the election. In addition, at least sixty (60) days before the date of the election, the certified organization shall give direct written notice to each county extension educator in any county within the boundaries described in the petition.

C. A successor organization shall follow the board election procedures set in the bylaws of the successor organization and the statutory assessment provisions for the particular commodity represented by the successor organization.

SECTION 6. AMENDATORY 2 O.S. 2011, Section 5-60.15, is amended to read as follows:

Section 5-60.15. A. Subject to the approval of the Commissioner ~~of the State Department of Agriculture~~, the certified

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organization shall conduct the election and referendum on a statewide basis.

B. A producer of the agricultural commodity is eligible to vote in the election and referendum if:

1. The producer's production occurs within the state; and

2. The producer would be required under the referendum to pay the assessment.

C. Any producer who is eligible to vote at the election and referendum is eligible to be a member or a candidate for membership on the commodity producers board.

D. A potential candidate ~~must~~ shall file with the certified organization an application to have the name of such potential candidate printed on the ballot. The application ~~must~~ shall be signed by the candidate and by at least ten producers who are eligible to vote at the election. The application ~~must~~ shall be filed at least thirty (30) days before the date set for the election.

E. A voter may vote for board members by writing in the name of any eligible person whose name is not printed on the ballot.

F. A successor organization shall follow the board election procedures set in the bylaws of the successor organization and the statutory assessment provisions for the particular commodity represented by the successor organization.

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SECTION 7. AMENDATORY 2 O.S. 2011, Section 5-60.16, is amended to read as follows:

Section 5-60.16. A. The certified organization shall prepare and distribute all necessary ballots in advance of the referendum and election and shall cause ballots to be available at all polling places.

B. The referendum provisions of the ballot shall specify a maximum rate for the authorized assessment.

C. The election provisions of the ballot may be printed only with the names of candidates who have filed valid petitions under Section ~~6~~ 5-60.15 of this ~~act~~ title, but the ballot shall provide a space for write-in votes.

D. The ballot shall provide a space for the voter to certify the volume of the voter's production of the commodity during the preceding year or other relevant production period, as designated on the ballot.

E. A successor organization shall follow the board election procedures set in the bylaws of the successor organization and the statutory assessment provisions for the particular commodity represented by the successor organization.

SECTION 8. AMENDATORY 2 O.S. 2011, Section 5-60.18, is amended to read as follows:

Section 5-60.18. A. The original referendum and subsequent ~~biennial~~ board elections may provide exemptions for producers from

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payment of the assessment if the exemptions are included in full written form on the election ballot and are approved by:

1. Two-thirds or more of those voting in the election; or

2. More than one-half of those voting in the election and those voting in favor of the proposition produce at least fifty percent (50%) of the volume of production of the commodity during the relevant production period.

B. A successor organization shall follow the board election procedures set in the bylaws of the successor organization and the statutory assessment provisions for the particular commodity represented by the successor organization.

SECTION 9. AMENDATORY 2 O.S. 2011, Section 5-60.19, is amended to read as follows:

Section 5-60.19. A. In any contest of an election, a ballot is void if the voter overstated the volume of production of the producer by more than ten percent (10%). Any other error in stating volume of production is not grounds for invalidating the ballot.

B. If a ballot is void or if any other error is made in stating production volume, the returns shall be corrected and the results adjusted accordingly.

C. In the original referendum election, the Commissioner ~~of the State Department of Agriculture~~ shall be authorized and is responsible for making the determination if a ballot is void due to overstatement of production volume. In any subsequent referendum

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elections the individual commodity producer boards are authorized and shall be responsible for making such determination.

D. A successor organization shall follow the board election procedures set in the bylaws of the successor organization and the statutory assessment provisions for the particular commodity represented by the successor organization.

SECTION 10. AMENDATORY 2 O.S. 2011, Section 5-60.20, is amended to read as follows:

Section 5-60.20. A. Upon receiving the report of the returns of an election and referendum, the Commissioner ~~of the State Department of Agriculture~~ shall determine:

1. The number of votes cast for and against the referendum proposition;

2. The total volume of production of the commodity during the relevant production period;

3. The percentage of the total volume of production of the commodity that was produced by those voting in favor of the referendum proposition; and

4. The appropriate number of candidates receiving the highest number of votes for membership on the commodity producers board.

B. A successor organization shall follow the board election procedures set in the bylaws of the successor organization and the statutory assessment provisions for the particular commodity represented by the successor organization.

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SECTION 11. AMENDATORY 2 O.S. 2011, Section 5-60.21, is amended to read as follows:

Section 5-60.21. A. In a referendum election, if the Commissioner ~~of the State Department of Agriculture~~ finds that either of the two conditions set forth in subsection B of this section are met, the Commissioner shall publicly certify the adoption of the referendum proposition and issue certificates of election to those persons elected to the board. Otherwise the Commissioner shall certify that the referendum proposition was defeated.

B. The referendum proposition will be adopted upon a finding that:

1. Two-thirds or more of those voting in the election voted in favor of the referendum proposition; or

2. More than one-half of those voting in the election voted in favor of the referendum proposition, and those voting in favor of the proposition produced at least fifty percent (50%) of the volume of the production of the commodity during the relevant production period.

C. A successor organization shall follow the board election procedures set in the bylaws of the successor organization and the statutory assessment provisions for the particular commodity represented by the successor organization.

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SECTION 12. AMENDATORY 2 O.S. 2011, Section 5-60.22, is amended to read as follows:

Section 5-60.22. A ~~commodity producers board~~ certified organization shall conduct ~~biennial~~ elections for the purpose of electing members to the board on a schedule listed in the bylaws of the certified organization. The board shall give notice and hold the election in accordance with the applicable provisions of the Oklahoma Agricultural Commodity ~~Referendum~~ Act relating to the initial election and, to the extent necessary, in accordance with the rules of the ~~Commissioner of the State~~ Oklahoma Department of Agriculture, Food, and Forestry.

SECTION 13. AMENDATORY 2 O.S. 2011, Section 5-60.23, is amended to read as follows:

Section 5-60.23. If the Commissioner ~~of the State Department of Agriculture~~ certifies adoption of a referendum proposition under Section ~~12~~ 5-60.21 of this ~~act~~ title, the new commodity producers board is established and has the powers and duties prescribed by the Oklahoma Agricultural Commodity ~~Referendum~~ Act.

SECTION 14. AMENDATORY 2 O.S. 2011, Section 5-60.24, is amended to read as follows:

Section 5-60.24. A. On receiving certificates of election from the Commissioner ~~of the State Department of Agriculture~~, the ~~members of the commodity producers~~ certified organization's board shall meet and organize.

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B. Members of the certified organization's initial board shall draw lots so that one-third (1/3) of the members shall hold office for two (2) years, one-third (1/3) for four (4) years, and one-third (1/3) for six (6) years. Thereafter, members of the board shall serve for terms of six (6) years.

C. Each member holds office until a successor is elected and has qualified.

SECTION 15. AMENDATORY 2 O.S. 2011, Section 5-60.26, is amended to read as follows:

Section 5-60.26. A. The commodity producers board shall have the power and duty to:

1. Employ personnel deemed necessary by the board, fix the amount and manner of their compensation, and incur other expenses that are necessary and proper to enable the board to effectively carry out the purposes of the Oklahoma Agricultural Commodity ~~Referendum~~ Act;

2. Adopt ~~rules~~ and amend bylaws as necessary to promptly and effectively administer the Oklahoma Agricultural Commodity ~~Referendum~~ Act;

3. Retain legal counsel as is required to fulfill the purposes of the Oklahoma Agricultural Commodity ~~Referendum~~ Act;

4. Sue and be sued;

5. Initiate prosecution and civil remedies necessary to collect any assessments due and owing to the commodity producers board;

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6. Cooperate with local, state, ~~or~~ national or international organizations, whether public or private, in carrying out the purposes of contracts as may be necessary;

7. Make such reasonable expenditures of funds as is necessary to carry out the provisions of the Oklahoma Agricultural Commodity ~~Referendum~~ Act;

8. Call and conduct such meetings and elections as may be necessary in carrying out the provisions of the Oklahoma Agricultural Commodity ~~Referendum~~ Act;

9. Keep minutes of its meetings and other books and records that clearly reflect all acts and transactions of the board. The board shall open its records to examination by any participating producer or the Commissioner during regular business hours; provided, the board may determine ~~by rule~~ in bylaws that certain information provided by a commodity producer is confidential due to proprietary ~~and is confidential~~ or privacy reasons;

10. Set the rate of the assessment. The rate may not exceed the maximum established by statute in the case of successor organization or in the election authorizing the assessment or a subsequent election establishing a maximum rate in the case of a certified organization;

11. Deposit all monies received by the board, including, but not limited to, assessments, donations and grants, in a bank selected by the board and invest in securities of the state or

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federal government, certificates of deposit or certificates of any bank, trust company, or savings and loan association insured by a federal agency;

12. Establish an office or headquarters as necessary;

13. Purchase, lease, sell, exchange or dispose of real or personal property;

14. Formulate general policies and programs for the education, discovery, promotion and development of markets and industries for the utilization of the commodity in cooperation with the Oklahoma Department of Agriculture, Food, and Forestry;

15. Hire or retain legal counsel to represent the board in any matters and producers in matters pertaining to transportation problems and other matters which could result in potential substantial loss to producers;

16. Borrow money for any lawful purpose;

17. Act separately or in cooperation with any person in developing, carrying out, and participating in programs of research, disease and insect control, predator control, education, and promotion designed to encourage the production, marketing, and use of the commodity on which the assessment is levied; and

~~12.~~ 18. Exercise such other powers as necessary to carry out the purposes of the Oklahoma Agricultural Commodity ~~Referendum~~ Act.

B. The ~~Commissioner of the~~ State ~~Department~~ Board of Agriculture ~~shall~~ may promulgate rules for the establishment of

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commodity producer boards pursuant to the Oklahoma Agricultural Commodity ~~Referendum~~ Act as necessary. The rules shall ensure that such commodity producer boards are established and administered in a uniform manner.

SECTION 16. AMENDATORY 2 O.S. 2011, Section 5-60.27, is amended to read as follows:

Section 5-60.27. A. The commodity producers board shall ~~file with the Director of the Market Development Division of~~ provide the annual budget to the ~~State Department of Agriculture a proposed budget and may expend funds only after the division director has approved the budget. If after thorough review the division director disapproves the proposed budget, the proposed budget shall be returned to the submitting board not later than forty-five (45) days after the date on which the proposed budget is submitted with a statement of reasons for disapproval~~ Commissioner.

B. Accounts of the board are subject to audit ~~by the State Auditor and Inspector~~ on a consistent schedule as established in the organization's bylaws.

C. Within ~~thirty (30)~~ ninety (90) days following the end of each fiscal year of the board, the board shall submit ~~to the Director of the Market Development Division of the State Department of Agriculture a~~ an annual report itemizing all income and expenditures and describing all activities of the board during the previous fiscal year to the Commissioner.

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D. Funds collected by the commodity producers board pursuant to the Oklahoma Agricultural Commodity ~~Referendum~~ Act or other statute authorizing an assessment shall not be subject to state budget and expenditure limitations. Such funds shall at no time become monies of the state or become part of the general budget of the state. Debts or obligations of the board shall not be construed to be debts or obligations of this state.

SECTION 17. AMENDATORY 2 O.S. 2011, Section 5-60.28, is amended to read as follows:

Section 5-60.28. A. The board is authorized to receive assessments as provided for in the Oklahoma Agricultural Commodity ~~Referendum~~ Act or other statute authorizing an assessment, and donations or grants from any source ~~and grants from governmental agencies~~.

B. Money received by the board may be expended for the purpose of implementing the provisions of the Oklahoma Agricultural Commodity ~~Referendum~~ Act.

C. Funds assessed and collected under this act shall not be expended for use directly or indirectly to promote or oppose the election of any candidate for public office ~~or to influence legislation~~.

SECTION 18. AMENDATORY 2 O.S. 2011, Section 5-60.29, is amended to read as follows:

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Section 5-60.29. A. The processor at the first point of sale determined by the board shall collect the assessment. Except as provided by subsection B of this section, the processor at that point shall collect the assessment by deducting the appropriate amount from the purchase price of the commodity or from any funds advanced for that purpose.

B. If the producer and processor are the same legal entity, or if the producer retains ownership after processing, such entity shall remit the assessment at the time of first sale of the commodity.

C. The ~~secretary-treasurer of the commodity producers~~ board, by registered or certified mail, shall notify each processor of the duty to collect the assessment, the manner in which the assessment is to be collected, and the date on or after which the processor is to begin collecting the assessment.

D. The amount of the assessment collected shall be clearly shown on the sales invoice or other document evidencing the transaction. The processor shall furnish a copy of the document to the producer.

E. Unless otherwise provided by the original referendum, no later than the tenth day of each month the processor shall remit the amount collected during the previous month to the ~~secretary-treasurer of the~~ board.

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F. No commodity shall be subject to the applicable fee more than once per growing season.

G. A successor organization shall follow the assessment requirements and procedures established in the statutory provisions for the particular commodity represented by the successor organization, if applicable.

SECTION 19. AMENDATORY 2 O.S. 2011, Section 5-60.30, is amended to read as follows:

Section 5-60.30. A. A producer who has paid an assessment may obtain a refund of the amount paid by filing an application for refund with the ~~secretary-treasurer of the commodity producers board~~ certified organization within sixty (60) days after the date of payment. The application ~~must~~ shall be in writing, on a form prescribed by the board for that purpose, and accompanied by proof of payment of the assessment.

B. The ~~secretary-treasurer~~ certified organization shall pay the refund to the producer before the eleventh day of the month following the month in which the application for refund and proof of payment are received.

C. A successor organization shall follow the refund requirements established in the statutory provisions for the particular commodity represented by the successor organization, if applicable.

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SECTION 20. AMENDATORY 2 O.S. 2011, Section 5-60.31, is amended to read as follows:

Section 5-60.31. A. At any biennial election of the commodity producers board, the ~~board~~ certified organization may submit to the voters a proposition to increase the maximum rate of assessment. ~~The proposition is approved and the new maximum rate is in effect if:~~

The referendum proposition will be adopted upon a finding that:

1. Two-thirds or more of those voting in the election voted in favor of the referendum proposition; or

2. More than one-half of those voting in the election voted in favor of the referendum proposition, and those voting in favor of the proposition produced at least fifty percent (50%) of the volume of the production of the commodity during the relevant production period.

B. 1. If twenty percent (20%) or more of the producers participating in the program present to the ~~secretary-treasurer~~ certified organization a petition calling for a referendum of the qualified voters on the proposition of discontinuing the assessment, the ~~board~~ certified organization shall conduct a referendum for that purpose. An election on a proposition of discontinuing the assessment shall be held no more than once per year.

2. The ~~board~~ certified organization shall give notice of the referendum, the referendum shall be conducted, and the results shall

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be declared in the manner provided by law for the original referendum and election, with any necessary exceptions provided ~~by rule promulgated pursuant to the Oklahoma Agricultural Commodity Referendum Act~~ in bylaws of the certified organization.

3. The ~~board~~ certified organization shall conduct the referendum within ninety (90) days of the date of filing of the petition.

4. The proposition shall be approved if:

a. two-thirds or more of those voting in the election voted in favor of the referendum proposition, or

b. more than one-half of those voting in the election voted in favor of the referendum proposition, and those voting in favor of the proposition produced at least fifty percent (50%) of the volume of the production of the commodity during the relevant production period.

C. If the proposition is approved, the assessment is abolished.

D. A successor organization shall follow the statutory assessment provisions and the assessment continuation referendum requirements established in the statutory provisions for the particular commodity represented by the successor organization.

SECTION 21. AMENDATORY 2 O.S. 2011, Section 5-60.32, is amended to read as follows:

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Section 5-60.32. The commodity producers board may investigate conditions that relate to the prompt remittance of the assessment by any producer or processor. If the board determines that a person has failed to remit to the board the required assessment ~~as required by the Oklahoma Agricultural Commodity Referendum Act~~, the board may independently institute proceedings for recovery of the amount due to the board or for injunctive or other appropriate relief.

SECTION 22. AMENDATORY 2 O.S. 2011, Section 5-60.33, is amended to read as follows:

Section 5-60.33. A violation of any provision of the Oklahoma Agricultural Commodity ~~Referendum~~ Act is unlawful and may be enjoined by a district court of competent jurisdiction. In any action brought by a board which results in an injunction against a person and the court determines that such person has violated any provision of the Oklahoma Agricultural Commodity ~~Referendum~~ Act, the court shall award costs and attorney fees to the board.

SECTION 23. AMENDATORY 2 O.S. 2011, Section 5-60.34, is amended to read as follows:

Section 5-60.34. All commissions and assessments established before July 1, 1999, are exempt from the requirements and provisions of the Oklahoma Agricultural Commodity ~~Referendum~~ Act. However, any statutory commodity board that is replaced by a successor organization approved by the Commissioner shall be subject to the provisions of this act.

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SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-60.35 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. If a statutory commodity producers board becomes a successor organization, all persons employed by a statutory commodity producers board prior to the date of approval by the Commissioner remain members of the Oklahoma Public Employees Retirement System until retirement or termination, at the election of the employee.

B. For all employees who remain members of the Oklahoma Public Employees Retirement System pursuant to subsection A of this section, the successor organization shall pay the required employer contributions applicable to the participating employers in the Oklahoma Public Employees Retirement System pursuant to Section 920 of Title 74 of the Oklahoma Statutes and the employee shall continue to pay employee contributions as required by Section 919.1 of Title 74 of the Oklahoma Statutes.

C. All employees of a statutory commodity producers board who remain members of the Oklahoma Public Employees Retirement System pursuant to subsection A of this section shall continue to be eligible employees for purposes of Sections 901 through 932 of Title 74 of the Oklahoma Statutes. The successor organization shall be considered a participating employer, as defined by paragraph (25) of Section 902 of Title 74 of the Oklahoma Statutes only for such employees.

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D. No person initially employed by the successor organization after the date of approval by the Commissioner shall be allowed to participate in the Oklahoma Public Employees Retirement System during the term of their employment with the successor organization, regardless of whether that employee was previously employed by a participating employer in the Oklahoma Public Employees Retirement System.

E. 1. All annual leave and sick leave accumulated prior to the date of approval by the Commissioner by an employee who remains a member of the Oklahoma Public Employees Retirement System pursuant to subsection A of this section will be recognized by the successor organization, subject to all accrual limitations in the Oklahoma Statutes.

2. Beginning on the date of approval by the Commissioner, employees of the successor organization shall not accrue annual leave and sick leave pursuant to Section 840-2.20 of Title 74 of the Oklahoma Statutes, but may accrue annual leave and sick leave according to a policy established by the successor organization at a rate not to exceed that of state employees under Title 74 of the Oklahoma Statutes.

3. The total participating service credit of a member who retires or terminates employment and elects a vested benefit shall include unused sick leave not to exceed the limitation imposed by paragraph 7 of subsection B of Section 913 of Title 74 of the

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Oklahoma Statutes. If unused sick leave entitles a member to an additional year of service credit, the successor organization shall reimburse the System for the cost of funding the additional reserve. The successor organization shall provide the System with adequate and timely information necessary to determine additional benefits and its cost under this paragraph.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-60.36 of Title 2, unless there is created a duplication in numbering, reads as follows:

All funds, equipment, and all other property shall transfer from the statutory commodity board to the successor organization immediately upon approval of the successor organization by the Commissioner. All funds, equipment and other property so transferred shall no longer be considered state funds or state property and may be transferred or disposed of by the successor organization without regard to state surplus property laws.

SECTION 26. AMENDATORY 2 O.S. 2011, Section 18-50, is amended to read as follows:

Section 18-50. A. Sections ~~37~~ 18-50 through ~~49~~ 18-62 of this ~~act~~ title shall be known and may be cited as the "Oklahoma Peanut Act".

B. The Oklahoma Peanut Commission shall cease to exist and shall be replaced by a successor organization if approved by the Commissioner of the Oklahoma Department of Agriculture, Food, and

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Forestry to receive the assessment contained in the Oklahoma Peanut Act pursuant to the procedures outlined in the Oklahoma Agricultural Commodity Act.

SECTION 27. AMENDATORY 2 O.S. 2011, Section 18-300, is amended to read as follows:

Section 18-300. A. Sections ~~19~~ 18-300 through ~~36~~ 18-317 of this ~~act~~ title shall be known and may be cited as the "Oklahoma Wheat Resources Act".

B. The Oklahoma Wheat Commission shall cease to exist and shall be replaced by a successor organization if approved by the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry to receive the assessment contained in the Oklahoma Wheat Resources Act pursuant to the procedures outlined in the Oklahoma Agricultural Commodity Act.

SECTION 28. AMENDATORY 74 O.S. 2011, Section 902, as last amended by Section 33, Chapter 254, O.S.L. 2013 (74 O.S. Supp. 2013, Section 902), is amended to read as follows:

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

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

(2) "Accumulated contributions" means the sum of all contributions by a member to the System which shall be credited to the member's account;

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

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

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

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

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

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

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

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

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

For compensation for service on or after July 1, 1994, through June 30, 1995, the maximum compensation level shall be Fifty Thousand Dollars ($50,000.00) per annum; for compensation for service on or after July 1, 1995, through June 30, 1996, the maximum compensation level shall be Sixty Thousand Dollars ($60,000.00) per annum; for compensation for service on or after July 1, 1996, through June 30, 1997, the maximum compensation level shall be Seventy Thousand Dollars ($70,000.00) per annum; and for compensation for service on or after July 1, 1997, through June 30, 1998, the maximum compensation level shall be Eighty Thousand Dollars ($80,000.00) per annum. For compensation for services on or after July 1, 1998, there shall be no maximum compensation level for retirement purposes.

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

(c) Notwithstanding any provision to the contrary, the compensation taken into account for any employee in determining the contribution or benefit accruals for any plan year is limited to the annual compensation limit under Section 401(a)(17) of the federal Internal Revenue Code.

(d) Current appointed members of the Oklahoma Tax Commission whose salary is constitutionally limited and is less than the highest salary allowed by law for his or her position shall be allowed, within ninety (90) days from the effective date of this act, to make an election to use the highest salary allowed by law for the position to which the member was appointed for the purposes of making contributions and determination of retirement benefits. Such election shall be irrevocable and be in writing. Reappointment to the same office shall not permit a new election. Members appointed to the Oklahoma Tax Commission after the effective date of this act shall make such election,

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pursuant to this subparagraph, within ninety (90) days of taking office;

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

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

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

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

(a) If a class or several classes of employees of any above-defined employers are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized

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under the laws of this state, which is in operation on the effective date, such employer shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this section.

(b) A class or several classes of employees who are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in operation on the effective date, and when the qualifications for employment in such class or classes are set by state law; and when such class or classes of employees are employed by a county or municipal government pursuant to such qualifications; and when the services provided by such employees are of such nature that they qualify for matching by or contributions from state or federal funds administered by an agency of state government which qualifies as a participating employer, then the agency of state government administering the state or federal funds shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this subsection; provided, that the required contributions to the retirement plan

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may be withheld from the contributions of state or federal funds administered by the state agency and transmitted to the System on the same basis as the employee and employer contributions are transmitted for the direct employees of the state agency. The retirement or eligibility for retirement under the provisions of law providing pensions for service as a volunteer firefighter shall not render any person ineligible for participation in the benefits provided for in Section 901 et seq. of this title. An employee of any public or private trust in which a county, city or town participates and is the primary beneficiary shall be deemed to be an eligible employee for the purpose of this act only.

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

(d) All employees of CompSource Mutual Insurance Company who retain membership in the Oklahoma Public Employees Retirement System pursuant to Section 14 of this act

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shall continue to be eligible employees for the purposes of the Oklahoma Public Employees Retirement System. CompSource Mutual Insurance Company shall be considered a participating employer only for such employees.

(e) All employees of a successor organization, as defined by Section 3 of this act, who retain membership in the Oklahoma Public Employees Retirement System pursuant to Section 24 of this act shall continue to be eligible employees for the purposes of the Oklahoma Public Employees Retirement System. A successor organization shall be considered a participating employer only for such employees.

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

(14) "Employee" means any officer or employee of a participating employer, whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year and whose salary or wage is equal to

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

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

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

(c) It shall be mandatory for an officer, appointee or employee of the office of district attorney to become a member of this System if he or she is not currently participating in a county retirement system. Provided further, that if an officer, appointee or employee of the office of district attorney is currently participating in such county retirement system, he or she is ineligible for this System as long as he or she is eligible for such county retirement system. Any eligible officer, appointee or employee of the office of district attorney shall be given credit for prior

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service as defined in this section. The provisions outlined in Section 917 of this title shall apply to those employees who have previously withdrawn their contributions.

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

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

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For purposes of this subparagraph, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the Legislative Service Bureau if such employee is employed by the Legislative Service Bureau, the State Senate if such employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives. Each regular legislative session during which the legislative employee or an employee of the Legislative Service Bureau participates full time shall be counted as six (6) months of full-time participating service.

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

(ii) Notwithstanding the provisions of division (i) of this subparagraph, any employee, who is eligible for membership in the System because of the provisions of this subparagraph and who was employed by the State Senate or House of Representatives after January 1, 1989, may file

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an election, in a manner specified by the Board, to participate as a member of the System prior to September 1, 1989.

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

(iv) A member of the System who did not initially elect to participate as a member of the System pursuant to this subparagraph shall be able to acquire service performed as a temporary legislative session employee for periods of service performed prior to the date upon which the person became a member of the System if:

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a. the member files an election with the System not later than December 31, 2000, to purchase the prior service; and

b. the member makes payment to the System of the actuarial cost of the service credit pursuant to subsection A of Section 913.5 of this title. The provisions of Section 913.5 of this title shall be applicable to the purchase of the service credit, including the provisions for determining service credit in the event of incomplete payment due to cessation of payments, death, termination of employment or retirement, but the payment may extend for a period not to exceed ninety-six (96) months;

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

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

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

(18) "Final average compensation" means the average annual compensation, including amounts deferred under deferred compensation

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agreements entered into between a member and a participating employer, up to, but not exceeding the maximum compensation levels as provided in paragraph (9) of this section received during the highest three (3) of the last ten (10) years of participating service immediately preceding retirement or termination of employment and with respect to members whose first participating service occurs on or after July 1, 2013, the compensation received during the highest five (5) of the last ten (10) years of participating service immediately preceding retirement or termination of employment. Provided, no member shall retire with a final average compensation unless the member has made the required contributions on such compensation, as defined by the Board of Trustees;

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

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

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

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(22) "Member" means an eligible employee or elected official who is in the System and is making the required employee or elected official contributions, or any former employee or elected official who shall have made the required contributions to the System and shall have not received a refund or withdrawal;

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

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

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

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

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

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

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

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a. for the period from February 28, 1961, to August 4, 1964, military service shall only include service in the Republic of Vietnam during that period, and

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

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

(b) during a period of war or combat military operation other than a conflict, war or era listed in subparagraph (a) of this paragraph, beginning on the date of Congressional authorization, Congressional resolution, or Executive Order of the President of the United States, for the use of the Armed Forces of the United States in a war or combat military operation, if such war or combat military operation lasted for a period of ninety (90) days or more, for a person who served, and only for the period served, in the area of responsibility of the war or combat military operation, but excluding a person who served on active

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duty for training only, unless discharged from such active duty for a service-connected disability, and provided that the burden of proof of military service during this period shall be with the member, who must present appropriate documentation establishing such service.

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

(24) "Normal retirement date" means the date on which a member may retire with full retirement benefits as provided in Section 901 et seq. of this title, such date being whichever occurs first:

(a) the first day of the month coinciding with or following a member's:

(1) sixty-second birthday with respect to members whose first participating service occurs prior to November 1, 2011, or

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(2) sixty-fifth birthday with respect to members whose first participating service occurs on or after November 1, 2011, or with respect to members whose first participating service occurs on or after November 1, 2011, reaches a minimum age of sixty (60) years and who also reaches a normal retirement date pursuant to subparagraph c of this paragraph,

(b) for any person who initially became a member prior to July 1, 1992, and who does not reach a normal retirement date pursuant to division (1) of subparagraph (a) of this paragraph, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total eighty (80); such a normal retirement date will also apply to any person who became a member of the sending system as defined in Section 901 et seq. of this title, prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992,

(c) for any person who became a member after June 30, 1992, but prior to November 1, 2011, and who does not reach a normal retirement date pursuant to division (1) of subparagraph (a) of this paragraph, the first

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day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total ninety (90),

(d) in addition to subparagraphs (a), (b) and (c) of this paragraph, the first day of the month coinciding with or following a member's completion of at least twenty (20) years of full-time-equivalent employment as:

(i) a correctional or probation and parole officer with the Department of Corrections and at the time of retirement, the member was a correctional or probation and parole officer with the Department of Corrections, or

(ii) a correctional officer, probation and parole officer or fugitive apprehension agent with the Department of Corrections who is in such position on June 30, 2004, or who is hired after June 30, 2004, and who receives a promotion or change in job classification after June 30, 2004, to another position in the Department of Corrections, so long as such officer or agent has at least five (5) years of service as a correctional officer, probation and parole officer or fugitive apprehension agent with the Department, has twenty (20) years of full-time-

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equivalent employment with the Department and was employed by the Department at the time of retirement, or

(iii) a firefighter with the Oklahoma Military Department either employed for the first time on or after July 1, 2002, or who was employed prior to July 1, 2002, in such position and who makes the election authorized by division (2) of subparagraph b of paragraph (9) of subsection A of Section 915 of this title and at the time of retirement, the member was a firefighter with the Oklahoma Military Department, and such member has at least twenty (20) years of credited service upon which the two and one-half percent (2 1/2%) multiplier will be used in calculating the retirement benefit,

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

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(f) for any member who was continuously employed by an entity or institution within The Oklahoma State System of Higher Education and whose initial employment with such entity or institution was prior to July 1, 1992, and who without a break in service of more than thirty (30) days became employed by an employer participating in the Oklahoma Public Employees Retirement System, the first day of the month coinciding with or following the date at which the sum of the member's age and number of years of credited service total eighty (80);

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

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

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

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

(29) "Retirement benefit" means a monthly income with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in

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which death occurs or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to Section 901 et seq. of this title or as otherwise allowed to be paid at the discretion of the Board;

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

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

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

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

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

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

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

SECTION 29. This act shall become effective July 1, 2014.

SECTION 30. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND WILDLIFE, dated 03/26/2014 - DO PASS.

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