

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 1376

By: McDaniel (Randy) of the
House

4 and

5 Brinkley of the Senate

6
7
8 An Act relating to public retirement systems;
9 amending Sections 2, as amended by Section 2, Chapter
10 419, O.S.L. 2014, and 11, Chapter 375, O.S.L. 2014
11 (74 O.S. Supp. 2014, Sections 935.2 and 935.11),
12 which relate to the Retirement Freedom Act; modifying
13 provisions related to eligible employees; modifying
14 provision related to beginning service date;
15 providing for continuation of participation in
16 defined benefit plan based upon certain employment;
17 modifying provisions related to qualified domestic
18 orders; and providing an effective date.

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21 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
22 entire bill and insert

23
24 "An Act relating to public retirement systems;
amending Section 2, as amended by Section 2, Chapter
419, O.S.L. 2014 (74 O.S. Supp. 2014, Section 935.2),
Section 4, Chapter 375, O.S.L. 2014 (74 O.S. Supp.
2014, Section 935.4), Section 5, Chapter 375, O.S.L.
2014 (74 O.S. Supp. 2014, Section 935.5), Section 7,
Chapter 375, O.S.L. 2014 (74 O.S. Supp. 2014, Section
935.7), and Section 11, Chapter 375, O.S.L. 2014 (74
O.S. Supp. 2014, Section 935.11), which relate to the
Retirement Freedom Act; defining certain position;
defining beginning service date; providing for
continuation of participation in defined benefit plan
based upon certain employment; requiring
participation in defined contribution plan for

1 certain employees; defining when certain employees
2 may participate; requiring certain participation to
3 be binding; providing for employer to determine
4 certain employees status; raising minimum employee
5 contribution rate; defining employer minimum
6 contribution rate; modifying provisions related to
7 qualified domestic orders; and providing an effective
8 date.

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

10 SECTION 1. AMENDATORY Section 2, Chapter 375, O.S.L.
11 2014, as amended by Section 2, Chapter 419, O.S.L. 2014 (74 O.S.
12 Supp. 2014, Section 935.2), is amended to read as follows:

13 Section 935.2 A. ~~Effective November 1, 2015, the~~ The Oklahoma
14 Public Employees Retirement System (System) shall establish a
15 defined contribution system for those persons who first become
16 employed in a full-time equivalent position or a position which is
17 less than full-time but more than half-time position and which
18 qualifies for employee benefits, including but not limited to,
19 health insurance and leave time by any participating employer of the
20 System, as defined by paragraph (25) of Section 902 of Title 74 of
21 the Oklahoma Statutes, on or after November 1, 2015. Any person
22 first licensed by the Department of Rehabilitation Services as a
23 vending stand operator or managing operator on or after November 1,
24 2015, as defined by Section 929 of Title 74 of the Oklahoma
Statutes, shall be eligible for participation in the defined
contribution system.

1 B. The provisions of subsection A of this section and the
2 provisions of this act shall not be applicable to employees who are
3 initially employed in the positions described in divisions (i), (ii)
4 and (iii) of subparagraph (d) of paragraph (24) of Section 902 of
5 Title 74 of the Oklahoma Statutes, district attorneys, assistant
6 district attorneys or other employees of the district attorney's
7 office, and any employees of a county, county elected officials,
8 county hospital, city or town, conservation district, circuit
9 engineering district, and any public or private trust in which a
10 county, city or town participates and is the primary beneficiary.

11 C. An employee described by subsection A of this section shall
12 become a participant in the defined contribution system and the
13 employee shall not accrue any service credit in the Oklahoma Public
14 Employees Retirement System as established pursuant to Section 901
15 et seq. of Title 74 of the Oklahoma Statutes.

16 D. Employees who participate in the defined contribution system
17 shall be deemed to begin service in the defined contribution system
18 on the ~~entry date of the employee~~ first day of the month following
19 employment.

20 E. An employee who begins participating in the defined benefit
21 plan on or after November 1, 2015, in one of the positions described
22 in subsection B of this section, shall continue to participate in
23 the defined benefit plan only as long as he or she continues to be
24 employed in a position described in subsection B of this section.

1 F. Any employee employed on or after November 1, 2015, by the
2 Legislative Service Bureau, State Senate or House of Representatives
3 for the full duration of a regular legislative session shall be
4 eligible for membership only in the defined contribution system
5 regardless of classification as a temporary employee. The temporary
6 session employee may participate in the defined contribution system
7 during the regular legislative session at the option of the
8 employee. Once the temporary session employee makes a choice to
9 participate, the choice shall be binding for all future legislative
10 sessions during which the temporary session employee is employed.
11 For purposes of this subparagraph, the determination of whether an
12 employee is employed for the full duration of a regular legislative
13 session shall be made by the employer.

14 SECTION 2. AMENDATORY Section 4, Chapter 375, O.S.L.
15 2014 (74 O.S. Supp. 2014, Section 935.4), is amended to read as
16 follows:

17 Section 935.4 A. Employee contributions to the defined
18 contribution retirement system shall consist of a minimum of ~~three~~
19 ~~percent (3.0%)~~ four and five-tenths percent (4.5%) of compensation.

20 B. Employee contributions to the defined contribution
21 retirement system that are eligible for an employer match shall
22 ~~consist of a maximum of seven percent (7.0%) of compensation not~~
23 exceed a percentage, based on the employee's compensation, which
24

1 would exceed the maximum amount allowed pursuant to Section 415 of
 2 the Internal Revenue Code of 1986, as amended.

3 SECTION 3. AMENDATORY Section 5, Chapter 375, O.S.L.
 4 2014 (74 O.S. Supp. 2014, Section 935.5), is amended to read as
 5 follows:

6 Section 935.5. A. ~~Employers~~ Except as otherwise provided by
 7 subsection B of this section, employers of employees who become
 8 participants in the defined contribution retirement system shall
 9 match the employee contribution paid on a monthly or more frequent
 10 basis ~~according to the following schedule~~ at the rate of six percent
 11 (6%) based on the same compensation amount used to compute the
 12 employee contribution amount:

Employee Contribution Rate	Employer Match
3.0%	3.0%
4.0%	4.0%
5.0%	5.0%
6.0%	6.0%
7.0%	7.0%.

19 B. If an employee selects a contribution rate of seven percent
 20 (7.0%) or more, but not higher than allowed pursuant to the maximum
 21 annual contribution limit prescribed by Section 415 of the Internal
 22 Revenue Code of 1986, as amended, the employer matching amount shall
 23 be seven percent (7.0%).

24

1 C. The initial ~~three percent~~ four and five-tenths percent
2 (4.5%) employee contribution shall be the only mandatory
3 contribution of an employee participating in the defined
4 contribution retirement system created by this act. These funds
5 shall be placed by the System in either a 401(a) plan or a 457(b)
6 plan, to be determined by the Board to maintain the plan consistent
7 with the Internal Revenue Code. Any employee contributions eligible
8 to be matched under this section over the ~~three percent~~ four and
9 five-tenths percent (4.5%) initial contribution shall be considered
10 voluntary deferrals of compensation and placed in a 457(b) plan.
11 All employer matching funds shall be placed in a 401(a) plan.

12 ~~C.~~ D. Any contribution rate that is more than the ~~three percent~~
13 four and five-tenths percent (4.5%) rate can be chosen by the
14 participating employee upon the employee's initial participation,
15 and can only be changed once per calendar year during an option
16 period as the Board determines. The employee contribution rate
17 chosen shall continue until the next option period.

18 ~~D.~~ E. The employer match as set forth in subsection A of this
19 section may be increased at any time by the Legislature without
20 affecting the then-existing rights of participating employees and
21 beneficiaries in order to encourage participating employees to
22 accumulate deferred income reserves for themselves and their
23 dependents. The employer match may be decreased at any time by the
24 Legislature without affecting the then-existing rights of

1 participating employees and beneficiaries in order to provide
 2 funding as may be needed to reduce the unfunded liabilities of the
 3 defined benefit plan as set forth in Section 901 et seq. of ~~Title 74~~
 4 ~~of the Oklahoma Statutes~~ this title, but shall not be less than
 5 ~~three percent (3.0%)~~ six percent (6%) for any year during which the
 6 defined contribution plan is maintained.

7 SECTION 4. AMENDATORY Section 7, Chapter 375, O.S.L.
 8 2014 (74 O.S. Supp. 2014, Section 935.7), is amended to read as
 9 follows:

10 Section 935.7. A. Participating employees shall at all times
 11 be vested at one hundred percent (100%) of their accounts containing
 12 solely their employee contributions, and the gains or losses on
 13 these contributions. Participating employees will have investment
 14 discretion over these accounts within the available options offered
 15 by the Board.

16 B. Participating employees shall be vested with respect to the
 17 employer matching amounts, and the gains or losses on these funds,
 18 deposited into their defined contribution system account or accounts
 19 according to the following schedule based on years of participating
 20 service:

21	Year 1	20%
22	Year 2	40%
23	Year 3	60%
24	Year 4	80%

1 Year 5 and thereafter 100%

2 C. Participating employees will have investment discretion over
3 all employer contributions.

4 D. For purposes of determining a participating employee's right
5 to withdraw employer matching contributions and any investment gains
6 upon such employer contribution matching amounts, the vesting
7 percentages apply at the end of each full year of service as
8 described in subsection B of this section.

9 E. For participating employees who do not select any investment
10 options, the OPERS Board will establish default investment options
11 for the contributions received from participating employees and
12 default investment options for matching employer contributions.

13 F. To the extent that participants leave employment and have
14 not vested in all of the employer contributions, the nonvested
15 employer contributions, including any gains or losses, shall be
16 immediately forfeited to the 401(a) plan and may be used to offset
17 costs of administering the plan. Upon reemployment with an employer
18 and satisfying the eligibility requirements to become a participant,
19 the reemployed participant shall receive credit for previous service
20 and be vested at the same percentage the participant was vested when
21 service was previously terminated. However, under no circumstances
22 shall the participant be entitled to any previously forfeited
23 employer contributions.
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1 SECTION 5. AMENDATORY Section 11, Chapter 375, O.S.L.
2 2014 (74 O.S. Supp. 2014, Section 935.11), is amended to read as
3 follows:

4 Section 935.11 A. Except as otherwise provided by this section
5 or in subsection D of Section ~~5~~ 935.5 of this ~~act~~ title, no
6 alteration, amendment, or repeal of this act shall affect the then-
7 existing rights of participating employees and beneficiaries, but
8 shall be effective only as to rights which would otherwise accrue
9 hereunder as a result of services rendered by an employee after such
10 alteration, amendment, or repeal. Any benefits, fund, property, or
11 rights created by or accruing to any person under the provisions of
12 this act shall not be subject to execution, garnishment or
13 attachment, or any other process or claim whatsoever, and shall be
14 unassignable, except as specifically provided by this section.
15 Notwithstanding the foregoing, the Board may offset any amounts held
16 by a participant in the plan or beneficiary to pay a judgment or
17 settlement against a participating employee or beneficiary for a
18 crime involving the System, for a fraud or breach of the
19 participating employee's fiduciary duty to the System, or for funds
20 or monies incorrectly paid to a participating employee or a
21 beneficiary, provided such offset is in accordance with the
22 requirements of Section 401(a)(13) or similar provisions of the
23 Internal Revenue Code. The offset applies to any assets held in the
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1 plan which may otherwise be payable to a participating employee or
2 beneficiary from the plan administered by the Board.

3 B. 1. The provisions of subsection A of this section shall not
4 apply to a qualified domestic order as provided pursuant to this
5 subsection.

6 2. The term "qualified domestic order" means an order issued by
7 a district court of this state pursuant to the domestic relation
8 laws of the State of Oklahoma which relates to the provision of
9 marital property rights to a spouse or former spouse of a
10 participating employee or provision of support for a minor child or
11 children and which creates or recognizes the existence of the right
12 of an alternate payee, or assigns to an alternate payee the right,
13 to receive a portion of the funds payable with respect to a
14 participant in the plan.

15 3. For purposes of the payment of marital property, to qualify
16 as an alternate payee a spouse or former spouse must have been
17 married to the related participating employee for a period of not
18 less than thirty (30) continuous months immediately preceding the
19 commencement of the proceedings from which the qualified domestic
20 order issues.

21 4. A qualified domestic order is valid and binding on the Board
22 and the related participating employee only if it meets the
23 requirements of this subsection.

24 5. A qualified domestic order shall clearly specify:

- 1 a. the name and last-known mailing address (if any) of
- 2 the participating employee and the name and mailing
- 3 address of the alternate payee covered by the order,
- 4 b. the amount or percentage of the participating
- 5 employee's funds or assets to be paid by the System to
- 6 the alternate payee,
- 7 c. the number of payments or period to which such order
- 8 applies,
- 9 d. the characterization of the benefit as to marital
- 10 property rights or child support, and
- 11 e. each plan to which such order applies.

12 6. A qualified domestic order meets the requirements of this
13 subsection only if such order:

- 14 a. does not require the System to provide any type or
- 15 form of benefit, or any option not otherwise provided
- 16 under state law as relates to the System,
- 17 b. does not require the System to provide increased
- 18 benefits, and
- 19 c. does not require the payment of funds or assets to an
- 20 alternate payee which are required to be paid to
- 21 another alternate payee pursuant to another order
- 22 previously determined to be a qualified domestic order
- 23 or an order recognized by the System as a valid order
- 24 prior to the effective date of this act.

1 7. ~~A qualified domestic order shall not require payment of~~
2 ~~funds or assets to an alternate payee prior to the actual permitted~~
3 ~~distribution date or withdrawal of the related participating~~
4 ~~employee.~~

5 8. ~~The obligation of the System to pay an alternate payee~~
6 ~~pursuant to a qualified domestic order shall cease upon the death of~~
7 ~~the related participating employee.~~

8 9. This subsection shall not be subject to the provisions of
9 the Employee Retirement Income Security Act of 1974 (ERISA), 29
10 U.S.C.A., Section 1001 et seq., as amended from time to time, or
11 rules and regulations promulgated thereunder, and court cases
12 interpreting said act.

13 ~~10.~~ 8. The Board shall promulgate such rules as are necessary
14 to implement the provisions of this subsection.

15 ~~11.~~ 9. An alternate payee who has acquired beneficiary rights
16 pursuant to a valid qualified domestic order must fully comply with
17 all provisions of the rules promulgated by the Board pursuant to
18 this subsection in order to continue receiving his or her benefit.

19 SECTION 6. This act shall become effective November 1, 2015."
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1 Passed the Senate the 20th day of April, 2015.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2015.

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8 _____
9 Presiding Officer of the House
10 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 1376

By: McDaniel (Randy) of the
House

3 and

4 Brinkley of the Senate

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8 An Act relating to public retirement systems;
9 amending Sections 2, as amended by Section 2, Chapter
10 419, O.S.L. 2014, and 11, Chapter 375, O.S.L. 2014
11 (74 O.S. Supp. 2014, Sections 935.2 and 935.11),
12 which relate to the Retirement Freedom Act; modifying
13 provisions related to eligible employees; modifying
14 provision related to beginning service date;
15 providing for continuation of participation in
16 defined benefit plan based upon certain employment;
17 modifying provisions related to qualified domestic
18 orders; and providing an effective date.

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

17 SECTION 1. AMENDATORY Section 2, Chapter 375, O.S.L.
18 2014, as amended by Section 2, Chapter 419, O.S.L. 2014 (74 O.S.
19 Supp. 2014, Section 935.2), is amended to read as follows:

20 Section 935.2 A. Effective November 1, 2015, the Oklahoma
21 Public Employees Retirement System (System) shall establish a
22 defined contribution system for those persons who first become
23 employed in a full-time equivalent position or a position which is
24 less than full-time but more than half-time position and which

1 qualifies for employee benefits, including but not limited to,
2 health insurance and leave time, by any participating employer of
3 the System, as defined by paragraph (25) of Section 902 of Title 74
4 of the Oklahoma Statutes, on or after November 1, 2015. Any person
5 first licensed by the Department of Rehabilitation Services as a
6 vending stand operator or managing operator on or after November 1,
7 2015, as defined by Section 929 of Title 74 of the Oklahoma
8 Statutes, shall be eligible for participation in the defined
9 contribution system.

10 B. The provisions of subsection A of this section and the
11 provisions of this act shall not be applicable to employees who are
12 initially employed in the positions described in divisions (i), (ii)
13 and (iii) of subparagraph (d) of paragraph (24) of Section 902 of
14 Title 74 of the Oklahoma Statutes, district attorneys, assistant
15 district attorneys or other employees of the district attorney's
16 office, and any employees of a county, county elected officials,
17 county hospital, city or town, conservation district, circuit
18 engineering district, and any public or private trust in which a
19 county, city or town participates and is the primary beneficiary.

20 C. An employee described by subsection A of this section shall
21 become a participant in the defined contribution system and the
22 employee shall not accrue any service credit in the Oklahoma Public
23 Employees Retirement System as established pursuant to Section 901
24 et seq. of Title 74 of the Oklahoma Statutes.

1 D. Employees who participate in the defined contribution system
2 shall be deemed to begin service in the defined contribution system
3 on the ~~entry date of the employee~~ first day of the month following
4 employment.

5 E. An employee who begins participating in the defined benefit
6 plan on or after November 1, 2015, in one of the positions described
7 in subsection B of this section, shall continue to participate in
8 the defined benefit plan only as long as he or she continues to be
9 employed in a position described in subsection B of this section.

10 SECTION 2. AMENDATORY Section 11, Chapter 375, O.S.L.
11 2014 (74 O.S. Supp. 2014, Section 935.11), is amended to read as
12 follows:

13 Section 935.11 A. Except as otherwise provided by this section
14 or in subsection D of Section ~~5~~ 935.5 of this ~~act~~ title, no
15 alteration, amendment, or repeal of this act shall affect the then-
16 existing rights of participating employees and beneficiaries, but
17 shall be effective only as to rights which would otherwise accrue
18 hereunder as a result of services rendered by an employee after such
19 alteration, amendment, or repeal. Any benefits, fund, property, or
20 rights created by or accruing to any person under the provisions of
21 this act shall not be subject to execution, garnishment or
22 attachment, or any other process or claim whatsoever, and shall be
23 unassignable, except as specifically provided by this section.
24 Notwithstanding the foregoing, the Board may offset any amounts held

1 by a participant in the plan or beneficiary to pay a judgment or
2 settlement against a participating employee or beneficiary for a
3 crime involving the System, for a fraud or breach of the
4 participating employee's fiduciary duty to the System, or for funds
5 or monies incorrectly paid to a participating employee or a
6 beneficiary, provided such offset is in accordance with the
7 requirements of Section 401(a)(13) or similar provisions of the
8 Internal Revenue Code. The offset applies to any assets held in the
9 plan which may otherwise be payable to a participating employee or
10 beneficiary from the plan administered by the Board.

11 B. 1. The provisions of subsection A of this section shall not
12 apply to a qualified domestic order as provided pursuant to this
13 subsection.

14 2. The term "qualified domestic order" means an order issued by
15 a district court of this state pursuant to the domestic relation
16 laws of the State of Oklahoma which relates to the provision of
17 marital property rights to a spouse or former spouse of a
18 participating employee or provision of support for a minor child or
19 children and which creates or recognizes the existence of the right
20 of an alternate payee, or assigns to an alternate payee the right,
21 to receive a portion of the funds payable with respect to a
22 participant in the plan.

23 3. For purposes of the payment of marital property, to qualify
24 as an alternate payee a spouse or former spouse must have been

1 married to the related participating employee for a period of not
2 less than thirty (30) continuous months immediately preceding the
3 commencement of the proceedings from which the qualified domestic
4 order issues.

5 4. A qualified domestic order is valid and binding on the Board
6 and the related participating employee only if it meets the
7 requirements of this subsection.

8 5. A qualified domestic order shall clearly specify:

- 9 a. the name and last-known mailing address (if any) of
10 the participating employee and the name and mailing
11 address of the alternate payee covered by the order,
12 b. the amount or percentage of the participating
13 employee's funds or assets to be paid by the System to
14 the alternate payee,
15 c. the number of payments or period to which such order
16 applies,
17 d. the characterization of the benefit as to marital
18 property rights or child support, and
19 e. each plan to which such order applies.

20 6. A qualified domestic order meets the requirements of this
21 subsection only if such order:

- 22 a. does not require the System to provide any type or
23 form of benefit, or any option not otherwise provided
24 under state law as relates to the System,

1 b. does not require the System to provide increased
2 benefits, and

3 c. does not require the payment of funds or assets to an
4 alternate payee which are required to be paid to
5 another alternate payee pursuant to another order
6 previously determined to be a qualified domestic order
7 or an order recognized by the System as a valid order
8 prior to the effective date of this act.

9 7. ~~A qualified domestic order shall not require payment of~~
10 ~~funds or assets to an alternate payee prior to the actual permitted~~
11 ~~distribution date or withdrawal of the related participating~~
12 ~~employee.~~

13 8. ~~The obligation of the System to pay an alternate payee~~
14 ~~pursuant to a qualified domestic order shall cease upon the death of~~
15 ~~the related participating employee.~~

16 9. This subsection shall not be subject to the provisions of
17 the Employee Retirement Income Security Act of 1974 (ERISA), 29
18 U.S.C.A., Section 1001 et seq., as amended from time to time, or
19 rules and regulations promulgated thereunder, and court cases
20 interpreting said act.

21 ~~10.~~ 8. The Board shall promulgate such rules as are necessary
22 to implement the provisions of this subsection.

23 ~~11.~~ 9. An alternate payee who has acquired beneficiary rights
24 pursuant to a valid qualified domestic order must fully comply with

1 all provisions of the rules promulgated by the Board pursuant to
2 this subsection in order to continue receiving his or her benefit.

3 SECTION 3. This act shall become effective November 1, 2015.

4 Passed the House of Representatives the 3rd day of March, 2015.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ___ day of _____, 2015.

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Presiding Officer of the Senate

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