

1 ENGROSSED HOUSE
2 BILL NO. 1376

By: McDaniel (Randy) of the
House

3 and

4 Brinkley of the Senate

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

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

Section 935.2 A. Effective November 1, 2015, the Oklahoma
Public Employees Retirement System (System) shall establish a
defined contribution system for those persons who first become
employed in a full-time equivalent position or a position which is
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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