

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 1047

By: Anderson

AS INTRODUCED

An Act relating to retirement; amending 74 O.S. 2011, Section 902, as last amended by Section 28, Chapter 1, O.S.L. 2014 (74 O.S. Supp. 2015, Section 902), which relates to the Oklahoma Public Employees Retirement System; requiring certain employees to receive credited service for mandatory overtime; defining term; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 902, as last amended by Section 28, Chapter 1, O.S.L. 2014 (74 O.S. Supp. 2015, 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;

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

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

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

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

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

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

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

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

1 For compensation for service on or after January 1,
2 1988, through June 30, 1994, the maximum compensation
3 level shall be Forty Thousand Dollars (\$40,000.00) per
4 annum.

5 For compensation for service on or after July 1, 1994,
6 through June 30, 1995, the maximum compensation level
7 shall be Fifty Thousand Dollars (\$50,000.00) per
8 annum; for compensation for service on or after July
9 1, 1995, through June 30, 1996, the maximum
10 compensation level shall be Sixty Thousand Dollars
11 (\$60,000.00) per annum; for compensation for service
12 on or after July 1, 1996, through June 30, 1997, the
13 maximum compensation level shall be Seventy Thousand
14 Dollars (\$70,000.00) per annum; and for compensation
15 for service on or after July 1, 1997, through June 30,
16 1998, the maximum compensation level shall be Eighty
17 Thousand Dollars (\$80,000.00) per annum. For
18 compensation for services on or after July 1, 1998,
19 there shall be no maximum compensation level for
20 retirement purposes.

21 (b) Compensation for retirement purposes shall include any
22 amount of elective salary reduction under Section 457
23 of the Internal Revenue Code of 1986 and any amount of
24

1 nonelective salary reduction under Section 414(h) of
2 the Internal Revenue Code of 1986.

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

9 (d) Current appointed members of the Oklahoma Tax
10 Commission whose salary is constitutionally limited
11 and is less than the highest salary allowed by law for
12 his or her position shall be allowed, within ninety
13 (90) days from the effective date of this act, to make
14 an election to use the highest salary allowed by law
15 for the position to which the member was appointed for
16 the purposes of making contributions and determination
17 of retirement benefits. Such election shall be
18 irrevocable and be in writing. Reappointment to the
19 same office shall not permit a new election. Members
20 appointed to the Oklahoma Tax Commission after the
21 effective date of this act shall make such election,
22 pursuant to this subparagraph, within ninety (90) days
23 of taking office;
24

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

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

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

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

19 (a) If a class or several classes of employees of any
20 above-defined employers are covered by Social Security
21 and are not covered by or eligible for and will not
22 become eligible for another retirement plan authorized
23 under the laws of this state, which is in operation on
24 the effective date, such employer shall be deemed an

1 eligible employer, but only with respect to that class
2 or those classes of employees as defined in this
3 section.

4 (b) A class or several classes of employees who are
5 covered by Social Security and are not covered by or
6 eligible for and will not become eligible for another
7 retirement plan authorized under the laws of this
8 state, which is in operation on the effective date,
9 and when the qualifications for employment in such
10 class or classes are set by state law; and when such
11 class or classes of employees are employed by a county
12 or municipal government pursuant to such
13 qualifications; and when the services provided by such
14 employees are of such nature that they qualify for
15 matching by or contributions from state or federal
16 funds administered by an agency of state government
17 which qualifies as a participating employer, then the
18 agency of state government administering the state or
19 federal funds shall be deemed an eligible employer,
20 but only with respect to that class or those classes
21 of employees as defined in this subsection; provided,
22 that the required contributions to the retirement plan
23 may be withheld from the contributions of state or
24 federal funds administered by the state agency and

1 transmitted to the System on the same basis as the
2 employee and employer contributions are transmitted
3 for the direct employees of the state agency. The
4 retirement or eligibility for retirement under the
5 provisions of law providing pensions for service as a
6 volunteer firefighter shall not render any person
7 ineligible for participation in the benefits provided
8 for in Section 901 et seq. of this title. An employee
9 of any public or private trust in which a county, city
10 or town participates and is the primary beneficiary
11 shall be deemed to be an eligible employee for the
12 purpose of this act only.

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

20 (d) All employees of CompSource Mutual Insurance Company
21 who retain membership in the Oklahoma Public Employees
22 Retirement System pursuant to Section 14 of this act
23 shall continue to be eligible employees for the
24 purposes of the Oklahoma Public Employees Retirement

1 System. CompSource Mutual Insurance Company shall be
2 considered a participating employer only for such
3 employees.

4 (e) All employees of a successor organization, as defined
5 by Section 5-60.12 of ~~this title~~ Title 2 of the
6 Oklahoma Statutes, who retain membership in the
7 Oklahoma Public Employees Retirement System pursuant
8 to Section ~~24~~ 5-60.35 of ~~this act~~ Title 2 of the
9 Oklahoma Statutes shall continue to be eligible
10 employees for the purposes of the Oklahoma Public
11 Employees Retirement System. A successor organization
12 shall be considered a participating employer only for
13 such employees.

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

21 (14) "Employee" means any officer or employee of a
22 participating employer, whose employment is not seasonal or
23 temporary and whose employment requires at least one thousand
24 (1,000) hours of work per year and whose salary or wage is equal to

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

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

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

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

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

5 (d) Eligibility shall also not include any officer or
6 employee of the Oklahoma Employment Security
7 Commission, except for those officers and employees of
8 the Commission electing to transfer to this System
9 pursuant to the provisions of Section 910.1 of this
10 title or any other class of officers or employees
11 specifically exempted by the laws of this state,
12 unless there be a consolidation as provided by Section
13 912 of this title. Employees of the Oklahoma
14 Employment Security Commission who are ineligible for
15 enrollment in the Employment Security Commission
16 Retirement Plan, that was in effect on January 1,
17 1964, shall become members of this System.

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

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

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

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

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

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

16 (iv) A member of the System who did not initially
17 elect to participate as a member of the System
18 pursuant to this subparagraph shall be able to
19 acquire service performed as a temporary
20 legislative session employee for periods of
21 service performed prior to the date upon which
22 the person became a member of the System if:
23
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- 1 a. the member files an election with the System
2 not later than December 31, 2000, to
3 purchase the prior service; and
- 4 b. the member makes payment to the System of
5 the actuarial cost of the service credit
6 pursuant to subsection A of Section 913.5 of
7 this title. The provisions of Section 913.5
8 of this title shall be applicable to the
9 purchase of the service credit, including
10 the provisions for determining service
11 credit in the event of incomplete payment
12 due to cessation of payments, death,
13 termination of employment or retirement, but
14 the payment may extend for a period not to
15 exceed ninety-six (96) months;

16 (f) Any person employed by the Oklahoma Department of
17 Corrections as a correctional officer, probation and
18 parole officer or fugitive apprehension agent and who
19 is required by the Department to work mandatory
20 overtime shall have these hours credited towards years
21 of service. For purposes of this subparagraph,
22 "overtime" shall mean hours worked beyond the regular
23 fixed hours;
24

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

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

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

10 (18) "Final average compensation" means the average annual
11 compensation, including amounts deferred under deferred compensation
12 agreements entered into between a member and a participating
13 employer, up to, but not exceeding the maximum compensation levels
14 as provided in paragraph (9) of this section received during the
15 highest three (3) of the last ten (10) years of participating
16 service immediately preceding retirement or termination of
17 employment and with respect to members whose first participating
18 service occurs on or after July 1, 2013, the compensation received
19 during the highest five (5) of the last ten (10) years of
20 participating service immediately preceding retirement or
21 termination of employment. Provided, no member shall retire with a
22 final average compensation unless the member has made the required
23 contributions on such compensation, as defined by the Board of
24 Trustees;

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

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

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

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

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

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

- 1 (i) April 6, 1917, to November 11, 1918, commonly
2 referred to as World War I,
- 3 (ii) September 16, 1940, to December 7, 1941, as a
4 member of the 45th Division,
- 5 (iii) December 7, 1941, to December 31, 1946, commonly
6 referred to as World War II,
- 7 (iv) June 27, 1950, to January 31, 1955, commonly
8 referred to as the Korean Conflict or the Korean
9 War,
- 10 (v) February 28, 1961, to May 7, 1975, commonly
11 referred to as the Vietnam era, except that:
12 a. for the period from February 28, 1961, to
13 August 4, 1964, military service shall only
14 include service in the Republic of Vietnam
15 during that period, and
16 b. for purposes of determining eligibility for
17 education and training benefits, such period
18 shall end on December 31, 1976, or
- 19 (vi) August 1, 1990, to December 31, 1991, commonly
20 referred to as the Gulf War, the Persian Gulf
21 War, or Operation Desert Storm, but excluding any
22 person who served on active duty for training
23 only, unless discharged from such active duty for
24 a service-connected disability;

1 (b) during a period of war or combat military operation
2 other than a conflict, war or era listed in
3 subparagraph (a) of this paragraph, beginning on the
4 date of Congressional authorization, Congressional
5 resolution, or Executive Order of the President of the
6 United States, for the use of the Armed Forces of the
7 United States in a war or combat military operation,
8 if such war or combat military operation lasted for a
9 period of ninety (90) days or more, for a person who
10 served, and only for the period served, in the area of
11 responsibility of the war or combat military
12 operation, but excluding a person who served on active
13 duty for training only, unless discharged from such
14 active duty for a service-connected disability, and
15 provided that the burden of proof of military service
16 during this period shall be with the member, who must
17 present appropriate documentation establishing such
18 service.

19 An eligible member under this paragraph shall include only those
20 persons who shall have served during the times or in the areas
21 prescribed in this paragraph, and only if such person provides
22 appropriate documentation in such time and manner as required by the
23 System to establish such military service prescribed in this
24 paragraph, or for service pursuant to subdivision a of division (v)

1 of subparagraph (a) of this paragraph those persons who were awarded
2 service medals, as authorized by the United States Department of
3 Defense as reflected in the veteran's Defense Department Form 214,
4 related to the Vietnam Conflict for service prior to August 5, 1964;

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

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

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

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

21 (b) for any person who initially became a member prior to
22 July 1, 1992, and who does not reach a normal
23 retirement date pursuant to division (1) of
24 subparagraph (a) of this paragraph, the first day of

1 the month coinciding with or following the date at
2 which the sum of a member's age and number of years of
3 credited service total eighty (80); such a normal
4 retirement date will also apply to any person who
5 became a member of the sending system as defined in
6 Section 901 et seq. of this title, prior to July 1,
7 1992, regardless of whether there were breaks in
8 service after July 1, 1992,

9 (c) for any person who became a member after June 30,
10 1992, but prior to November 1, 2011, and who does not
11 reach a normal retirement date pursuant to division
12 (1) of subparagraph (a) of this paragraph, the first
13 day of the month coinciding with or following the date
14 at which the sum of a member's age and number of years
15 of credited service total ninety (90),

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

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

1 (ii) a correctional officer, probation and parole
2 officer or fugitive apprehension agent with the
3 Department of Corrections who is in such position
4 on June 30, 2004, or who is hired after June 30,
5 2004, and who receives a promotion or change in
6 job classification after June 30, 2004, to
7 another position in the Department of
8 Corrections, so long as such officer or agent has
9 at least five (5) years of service as a
10 correctional officer, probation and parole
11 officer or fugitive apprehension agent with the
12 Department, has twenty (20) years of full-time-
13 equivalent employment with the Department and was
14 employed by the Department at the time of
15 retirement, or

16 (iii) a firefighter with the Oklahoma Military
17 Department either employed for the first time on
18 or after July 1, 2002, or who was employed prior
19 to July 1, 2002, in such position and who makes
20 the election authorized by division (2) of
21 subparagraph b of paragraph (9) of subsection A
22 of Section 915 of this title and at the time of
23 retirement, the member was a firefighter with the
24 Oklahoma Military Department, and such member has

1 at least twenty (20) years of credited service
2 upon which the two and one-half percent (2 1/2%)
3 multiplier will be used in calculating the
4 retirement benefit,

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

13 (f) for any member who was continuously employed by an
14 entity or institution within The Oklahoma State System
15 of Higher Education and whose initial employment with
16 such entity or institution was prior to July 1, 1992,
17 and who without a break in service of more than thirty
18 (30) days became employed by an employer participating
19 in the Oklahoma Public Employees Retirement System,
20 the first day of the month coinciding with or
21 following the date at which the sum of the member's
22 age and number of years of credited service total
23 eighty (80);
24

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

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

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

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

11 (29) "Retirement benefit" means a monthly income with benefits
12 accruing from the first day of the month coinciding with or
13 following retirement and ending on the last day of the month in
14 which death occurs or the actuarial equivalent thereof paid in such
15 manner as specified by the member pursuant to Section 901 et seq. of
16 this title or as otherwise allowed to be paid at the discretion of
17 the Board;

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

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

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

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

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

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

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

18 SECTION 2. This act shall become effective November 1, 2016.

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