

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 1704

By: McDaniel

COMMITTEE SUBSTITUTE

An Act relating to public retirement systems; amending 20 O.S. 2011, Section 1102, which relates to the Uniform Retirement System for Justices and Judges; prescribing requirements related to post-retirement employment; requiring certain contributions to be made; providing for computation of retirement benefits based on employment; providing for inapplicability of certain provisions; amending 74 O.S. 2011, Section 913.4, as last amended by Section 12, Chapter 375, O.S.L. 2014 (74 O.S. Supp. 2016, Section 913.4), which relates to the Oklahoma Public Employees Retirement System; modifying provision related to benefits payable to surviving spouse of elected official; amending 74 O.S. 2011, Section 924, which relates to the collection of certain interest amounts; prescribing method for determination of interest; authorizing waiver of interest charges based upon approval of certain official; amending Section 2, Chapter 375, O.S.L. 2014, as last amended by Section 1, Chapter 303, O.S.L. 2015 (74 O.S. Supp. 2016, Section 935.2), which relates to the Retirement Freedom Act; modifying reference with respect to participating employees; and providing an effective date.

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

SECTION 1. AMENDATORY 20 O.S. 2011, Section 1102, is amended to read as follows:

1 Section 1102. A. Any Justice or Judge of the Supreme Court,
2 Court of Criminal Appeals, Workers' Compensation Court, Court of
3 Appeals or District Court who serves as Justice or judge of any of
4 said courts in the State of Oklahoma shall be a member of The
5 Uniform Retirement System for Justices and Judges. For members
6 whose initial service as a member of the System began prior to
7 January 1, 2012, such member who serves for a period of eight (8)
8 years or longer and upon reaching or passing the age of sixty-five
9 (65) years, or who serves for a period of ten (10) years or longer
10 and upon reaching or passing the age of sixty (60) years, or whose
11 sum of years of service and age equal or exceeds eighty (80), after
12 completing eight (8) years of judicial service, shall be eligible to
13 receive the retirement benefits herein provided. For members whose
14 initial service as a member of the System began on or after January
15 1, 2012, such member who serves for a period of eight (8) years or
16 longer and upon reaching or passing the age of sixty-seven (67)
17 years or who serves for a period of ten (10) years or longer and
18 upon reaching or passing the age of sixty-two (62) years shall be
19 eligible to receive the retirement benefits herein provided. In
20 determining the periods of time above mentioned a major fraction of
21 a year shall count as a whole year. If such Justice or judge is
22 still serving in such capacity when the above requirements are
23 complied with, the Justice or judge may elect to retire and may
24 elect whether such retirement shall become effective immediately or

1 at a specified time within the term of the Justice or judge or at
2 the expiration of the term of the Justice or judge. The Justice or
3 judge shall file a written declaration with the System and the Court
4 Administrator of his or her desire to retire. The Court
5 Administrator shall notify the Governor within five (5) business
6 days of receiving the Notice of Retirement.

7 B. Upon filing of an election by any Justice or judge to retire
8 as authorized by Section 1101 et seq. of this title, the office held
9 by such Justice or judge shall become vacated immediately or at the
10 specified time within the term of the Justice or judge, or at the
11 expiration of the term of the Justice or judge in accordance with
12 the election of the Justice or judge desiring retirement status.
13 Any such vacancy so created shall be filled in the manner provided
14 by law and the Constitution.

15 C. If any retired member of the System should be elected or
16 appointed to any judicial or other office covered by the System, the
17 retirement compensation of the retired member shall be suspended
18 during the period of time that the retired member holds such office
19 and be reinstated upon leaving such office. Notwithstanding any
20 other provision of this section or any other provision of law to the
21 contrary, a retired Justice or judge shall be permitted to be
22 employed by any college or university within The Oklahoma State
23 System of Higher Education as a full-time or part-time member of the
24 faculty or as a teacher in any common school or career and

1 technology education entity without suspension of retirement
2 benefits.

3 D. Any participating employer who is employing such a retiree
4 as described in subsection C of this section shall make proper
5 written notification to the System informing it of the beginning
6 date of such retiree's employment. Any retiree returning to work
7 for a participating employer shall make contributions to the System
8 and the employer shall do likewise. All retirees who have returned
9 to employment and participation in the System following retirement
10 shall have post-retirement benefits calculated on one of the
11 following methods:

12 1. All service accumulated from date of reemployment shall be
13 computed based on the benefit formula applicable at that time, and
14 the additional benefits shall be added to the previous benefits.
15 Such additional benefits shall be calculated each year based upon
16 additional service accrued from July 1 to June 30 of the previous
17 year and the additional benefits, if any, will be added to the
18 retiree's monthly benefit beginning January 1 of the year after the
19 retiree terminates the post-retirement employment and begins to
20 receive a benefit. However, the post-retirement service credit
21 shall be cumulative, beginning with service credit accrued after the
22 date of retirement, provided that the retiree has not received a
23 distribution of the post-retirement contributions. All post-
24 retirement additional benefits shall be calculated using actual

1 hours worked as well as the actual compensation received and upon
2 which contributions are paid. Post-retirement service is not
3 subject to the partial year round-up provisions of subsection A of
4 this section, and only full years of service will result in an
5 increase in a retiree's benefit.

6 2. Any retiree who returns to employment with a participating
7 employer for a minimum period of thirty-six (36) consecutive months,
8 shall have all service accumulated from date of reemployment counted
9 as participating service. For purposes of determining the
10 retirement benefits of such a member upon the termination of such
11 reemployment, all creditable service of the member shall be computed
12 based on the benefit formula applicable at the time of termination
13 of such reemployment. A retiree who is not reemployed for the full
14 thirty-six (36) consecutive months shall upon termination of such
15 reemployment have only the additional amount added to his or her
16 benefit.

17 3. The provisions of this section shall not be applicable to
18 Section 1104B of this title.

19 SECTION 2. AMENDATORY 74 O.S. 2011, Section 913.4, as
20 last amended by Section 12, Chapter 375, O.S.L. 2014 (74 O.S. Supp.
21 2016, Section 913.4), is amended to read as follows:

22 Section 913.4 A. 1. Except as otherwise provided in this
23 subsection, an elected official may elect to participate in the
24 System and if he or she elects to do so shall have the option of

participating at any one of the computation factors set forth in paragraph 3 or 4 of this subsection and will receive retirement benefits in accordance with the computation factor chosen. The election on participation in the System must be in writing, must specify the computation factor chosen, and must be filed with the System within ninety (90) days after the elected official takes office. The election to participate and the election of a computation factor shall be irrevocable. Reelection to the same office will not permit new elections. Failure of an elected official to file such election form within the ninety-day period shall be deemed an irrevocable election to participate in the System at the maximum computation factor.

2. Contributions and benefits will be based upon the elected official's annual compensation as defined in Section 902 of this title. Employer and elected official contributions shall be remitted at least monthly, or as the Board may otherwise provide, to the System for deposit in the Oklahoma Public Employees Retirement Fund. Effective July 1, 1994, and thereafter, the participating employer shall contribute as provided in Section 920 of this title.

3. Except as provided in paragraph 4 of this subsection, effective July 1, 1994, the computation factor selected and the corresponding elected official contribution rate shall be as follows:

Elected official	Computation	Alternate
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1	Contribution Rate	Factor	Formula
2	4.5%	1.9%	\$12.50
3	6%	2.5%	\$20.00
4	7.5%	3.0%	\$25.00
5	8.5%	3.4%	\$27.50
6	9%	3.6%	\$30.00
7	10%	4.0%	\$40.00

8 4. Elected officials who are first elected or appointed to an
9 elected office on or after November 1, 2010, shall elect a
10 computation factor of either 1.9% or 4%. The elected official
11 contribution rate for the 1.9% computation factor is currently 4.5%
12 and the contribution rate for the 4% computation factor is currently
13 10%. All other computation factors and contribution rates set forth
14 in paragraph 3 of this subsection shall not be available to any
15 person first elected or appointed to an elected office on or after
16 November 1, 2010.

17 5. The contribution rate for elected officials who are first
18 elected or appointed to an elected office on or after November 1,
19 2011, shall be in the amount specified in paragraph (a) of
20 subsection (1) of Section 919.1 of this title. The amount of the
21 retirement benefit for elected officials who are first elected or
22 appointed to an elected office on or after November 1, 2011, shall
23 be based on the provisions of paragraph (1) of subsection A of
24 Section 915 of this title.

1 6. The computation factors and corresponding elected official
2 contribution rates provided for in paragraphs 3 and 4 of this
3 subsection shall be based on the entire compensation as an elected
4 official subject to the definition and maximum compensation levels
5 as set forth in paragraph (9) of Section 902 of this title.

6 7. Elected officials who are first elected or appointed on or
7 after November 1, 2011, shall also be eligible to make the election
8 of an alternate multiplier and contribution rate pursuant to
9 paragraph 2 of subsection A of Section 915 of this title.

10 8. A statewide elected official or legislator whose first
11 service as an elected official occurs on or after November 1, 2015,
12 shall become a participant in the defined contribution system
13 created by Sections 1 through 11 of this act and such elected
14 official shall not accrue any service credit in the defined benefit
15 plan of the Oklahoma Public Employees Retirement System created
16 pursuant to Section 901 et seq. of this title.

17 B. The normal retirement date for an elected official shall be
18 the first day of the month coinciding with or following the
19 official's sixtieth birthday or the first day of the month
20 coinciding with or following the date at which the sum of the
21 elected official's age and number of years of credited service total
22 eighty (80). The normal retirement date for an elected official
23 first elected or appointed to an elected office on or after November
24 1, 2011, shall be the first day of the month coinciding with or

following the official's sixty-fifth birthday or the date upon which
 the elected or appointed official attains the age of sixty-two (62)
 and who has at least ten (10) years of elected or appointed service.
 Any elected official first elected or appointed to an elected office
 before November 1, 2011, who has a minimum of ten (10) years'
 participating service may retire under the early retirement
 provisions of this act, including those electing a vested benefit
 and shall receive an adjustment of annual benefits in accordance
 with the following percentage schedule:

Age	Percentage of Normal Retirement Benefits
60	100%
59	94%
58	88%
57	82%
56	76%
55	70%

Any elected official first elected or appointed to an elected
 office on or after November 1, 2011, who has a minimum of ten (10)
 years' participating service may retire under the early retirement
 provisions of this act, including those electing a vested benefit
 and shall receive an adjustment of annual benefits in accordance
 with the following percentage schedule:

Percentage of Normal

Age	Retirement Benefits
62	100%
61	93.33%
60	86.67%

C. 1. Any elected official shall receive annual benefits computed based upon the computation factor selected multiplied by the member's highest annual compensation received as an elected official prior to retirement or termination of employment multiplied by the number of years of credited service. No elected official shall retire using such highest annual compensation unless the elected official has made the required election and has paid the required contributions on such salary.

2. The retirement benefit may be computed pursuant to the provisions of paragraph (1) of subsection A of Section 915 of this title if the benefit would be higher. Elected officials who have a vested benefit prior to July 1, 1980, may elect to receive annual benefits based on the alternate formula provided above. Such annual benefits shall be paid in equal monthly installments.

3. Elected officials who become members of the Oklahoma Public Employees Retirement System on or after August 22, 2008, will receive retirement benefits in accordance with the computation factor selected pursuant to subsection A of this section multiplied by the member's highest annual compensation received as an elected official and only for those years of credited service the member

1 served as an elected official. If such elected official has
2 participating service as a nonelected member, then such nonelected
3 service shall be computed separately pursuant to the provisions of
4 paragraph (1) of subsection A of Section 915 of this title with the
5 final benefit result added to the final benefit result for elected
6 service. In no event shall the elected official be entitled to
7 apply the computation factor selected pursuant to subsection A of
8 this section or the compensation received as an elected official to
9 the computation of nonelected service.

10 4. Elected officials who are first elected or appointed to an
11 elected office on or after August 22, 2008, may not receive a
12 maximum benefit greater than their single highest annual
13 compensation received as a member of the Oklahoma Public Employees
14 Retirement System.

15 D. Any elected official making an election to participate at a
16 computation factor less than the maximum and later selecting a
17 higher computation factor shall contribute to the System a sum equal
18 to the amount which the elected official would have contributed if
19 the elected official had made such election at the time the elected
20 official first became eligible, plus interest as determined by the
21 Board, in order to receive the additional benefits for all service
22 as an elected official; otherwise, the additional benefits shall be
23 applicable only to service for which the elected official pays the
24 appropriate percent of contributions to the System.

1 E. The surviving spouse of a deceased elected official who was
2 first elected or appointed to an elected office before November 1,
3 2011, and who has at least six (6) years of participating service
4 and the surviving spouse of a deceased elected official who was
5 first elected or appointed to an elected office on or after November
6 1, 2011, and who has at least eight (8) years of participating
7 service shall be entitled to receive survivor benefits in the amount
8 herein prescribed, if married to the decedent continuously for a
9 period of at least three (3) years immediately preceding the elected
10 official's death. Provided the elected official had met the service
11 requirements, survivor benefits shall be payable when the deceased
12 member would have met the requirements for normal or early
13 retirement. The amount of the benefits the surviving spouse may
14 receive shall be fifty percent (50%) of the amount of benefits the
15 deceased elected official was receiving or will be eligible to
16 receive. ~~Remarriage of a surviving spouse shall disqualify the~~
17 ~~spouse for the receipt of survivor benefits.~~ Elected officials may
18 elect a retirement option as provided in Section 918 of this title
19 in lieu of the survivors benefit provided above.

20 F. Any elected official who served in the Armed Forces of the
21 United States, as defined in paragraph (23) of Section 902 of this
22 title, prior to membership in the Oklahoma Public Employees
23 Retirement System shall be granted credited service of not to exceed
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1 five (5) years for those periods of active military service during
2 which the elected official was a war veteran.

3 G. Anyone appointed or elected to an elected position after
4 July 1, 1990, shall not be eligible to receive benefits as provided
5 in this section until such person has participated as an elected
6 official for six (6) years. Anyone appointed or elected to an
7 elected position on or after November 1, 2011, shall not be eligible
8 to receive benefits as provided in this section until such person
9 has participated as an elected official for eight (8) years.

10 H. Elected officials who terminate participation in the System
11 and who have a minimum of six (6) years of participating service
12 shall be entitled to elect a vested benefit and shall be entitled to
13 the retirement options as provided in Section 918 of this title in
14 lieu of the survivors benefit provided in subsection E of this
15 section. Elected officials, first elected or appointed to an
16 elected office on or after November 1, 2011, who terminate
17 participation in the System and who have a minimum of eight (8)
18 years of participating service shall be entitled to elect a vested
19 benefit and shall be entitled to retirement options as provided in
20 Section 918 of this title in lieu of the survivors benefits provided
21 in subsection E of this section.

22 I. In determining the number of years of credited service, a
23 fractional year of six (6) months or more shall be considered as one
24 (1) year, and less than six (6) months or more shall be disregarded.

1 For members who joined the System on or after November 1, 2011, the
2 number of years of credited service shall be based on actual years
3 and months of credited service without rounding up or down.

4 SECTION 3. AMENDATORY 74 O.S. 2011, Section 924, is
5 amended to read as follows:

6 Section 924. Any person who shall knowingly make any false
7 statement, or who shall falsify or permit to be falsified any record
8 necessary for carrying out the intent of this act for the purpose of
9 committing fraud, shall be guilty of a misdemeanor, and upon
10 conviction shall be punished by a fine not exceeding Five Hundred
11 Dollars (\$500.00) or by imprisonment for not exceeding one (1) year.
12 Should any error in any records of the Oklahoma Public Employees
13 Retirement System result in any member or beneficiary receiving more
14 or less than he would have been entitled to receive had the records
15 been correct, the Bboard shall correct such error, and, as far as
16 practicable, make future payments in such manner that the actuarial
17 equivalent of the benefit to which such member or beneficiary was
18 entitled shall be paid, and to this end may recover any
19 overpayments. The agency shall charge interest on any overpayments
20 in an amount not to exceed the actuarially assumed interest rate
21 adopted by the Board for investment earnings each year. Interest
22 charges may be waived upon the approval of the Executive Director.
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1 SECTION 4. AMENDATORY Section 2, Chapter 375, O.S.L.

2 2014, as last amended by Section 1, Chapter 303, O.S.L. 2015 (74
3 O.S. Supp. 2016, Section 935.2), is amended to read as follows:

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

17 B. The provisions of subsection A of this section and the
18 provisions of this act shall not be applicable to employees who are
19 initially employed in the positions described in divisions (i), (ii)
20 and, (iii), or (iv) of subparagraph (d) of paragraph (24) of Section
21 902 of ~~Title 74 of the Oklahoma Statutes~~ this title, district
22 attorneys, assistant district attorneys or other employees of the
23 district attorney's office, and any employees of a county, county
24 elected officials, county hospital, city or town, conservation

1 district, circuit engineering district, and any public or private
2 trust in which a county, city or town participates and is the
3 primary beneficiary.

4 C. An employee described by subsection A of this section shall
5 become a participant in the defined contribution system and the
6 employee shall not accrue any service credit in the Oklahoma Public
7 Employees Retirement System as established pursuant to Section 901
8 et seq. of ~~Title 74 of the Oklahoma Statutes~~ this title.

9 D. Employees who participate in the defined contribution system
10 shall be deemed to begin service in the defined contribution system
11 on the first day of the month following employment.

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

17 F. Any employee employed on or after November 1, 2015, by the
18 Legislative Service Bureau, State Senate or House of Representatives
19 for the full duration of a regular legislative session shall be
20 eligible for membership only in the defined contribution system
21 regardless of classification as a temporary employee. The temporary
22 session employee may participate in the defined contribution system
23 during the regular legislative session at the option of the
24 employee. Once the temporary session employee makes a choice to

1 participate, the choice shall be binding for all future legislative
2 sessions during which the temporary session employee is employed.
3 For purposes of this subparagraph, the determination of whether an
4 employee is employed for the full duration of a regular legislative
5 session shall be made by the employer.

6 SECTION 5. This act shall become effective November 1, 2017.

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