

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 2553

By: McDaniel of the House

and

Pugh of the Senate

COMMITTEE SUBSTITUTE

An Act relating to teachers' retirement; amending 70 O.S. 2011, Sections 17-102.3, 17-105, as last amended by Section 2, Chapter 48, O.S.L. 2017 (70 O.S. Supp. 2017, Section 17-105) and 17-116.2C, which relate to the Tax-Sheltered Annuity Program, retirement, and computation of retirement benefits; authorizing the Board of Trustees to terminate its Tax-Sheltered Annuity Program; specifying procedures for terminating program; modifying requirements for retiring with a disability allowance; eliminating certain employment period for specific computation of benefits.

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 17-102.3, is amended to read as follows:

Section 17-102.3. The Tax-Sheltered Annuity Program provided by Section 17-101 et seq. of this title shall satisfy the applicable qualification requirements for grandfathered governmental tax-sheltered annuity programs as specified in 26 U.S.C. Section 403(b)

1 and the relevant regulatory provisions and guidance related thereto.
2 In order to satisfy these requirements and guidelines, the Teachers'
3 Retirement Tax-Sheltered Annuity Program shall be subject to the
4 following provisions, notwithstanding any other provision of the law
5 governing the Oklahoma Teachers' Retirement System:

6 (1) The Board of Trustees shall administer and distribute the
7 corpus and income of the Tax-Sheltered Annuity Program to members
8 and their beneficiaries pursuant to the applicable requirements
9 under 26 U.S.C. Section 403(b), relevant regulatory provisions and
10 guidance under 26 U.S.C. Section 403(b), and in accordance with the
11 law governing the Oklahoma Teachers' Retirement System.

12 (2) All benefits paid from the retirement system shall be
13 distributed in accordance with the applicable requirements of 26
14 U.S.C. Sections 403(b)(10) and 401(a)(9) and the regulations
15 thereto.

16 (3) To the extent required by 26 U.S.C. Sections 403(b)(10) and
17 401(a)(31), the retirement system shall allow members and qualified
18 beneficiaries to elect a direct rollover of eligible distributions
19 to another eligible retirement plan.

20 (4) To the extent required under 26 U.S.C. Section 403(b)(11)
21 and the regulations thereto, distributions under the Tax-Sheltered
22 Annuity Program shall only be paid when the member attains the age
23 of fifty-nine and one-half (59 1/2) years, separates from service,
24 dies, becomes disabled, or in the case of hardship.

1 (5) The Board of Trustees may terminate the Tax-Sheltered
2 Annuity Program administered under 26 U.S.C., Section 403(b). The
3 Board of Trustees shall do so in accordance with the requirements of
4 federal tax law and in a way that is designed to minimize financial
5 harm to the participants in the program. To assist in minimizing
6 any such harm, an employer that sponsors a local tax-sheltered
7 annuity program under Section 403(b) and that has an active or
8 inactive participant with an account balance under the program,
9 shall permit the provider administering the program on the effective
10 date of such termination to be a provider in the local program and
11 to offer the same investment options to program participants that
12 were available under the program. The employer is required to
13 permit the program provider to remain a provider under the local
14 program for a two-year period beginning with the first day of the
15 local program's plan year following the effective date of such
16 termination; provided, that this requirement shall apply with
17 respect to an investment option only so long as the program provider
18 continues to lawfully provide the investment option.
19 Notwithstanding the foregoing, any program participant may elect to
20 remit contributions to and/or, subject to any contractual
21 restrictions, transfer the balance of the program participant to,
22 any other approved provider under the local program at any time
23 during the two year period provided herein. An employer that
24 sponsors a local program that includes the program as the only

1 investment option, and that has an active or inactive participant
2 with an account balance under the program, shall permit the program
3 provider to be a provider in that local program subject to the above
4 terms, or the local program of the employer shall terminate at such
5 time that the program is terminated, in which case the employer
6 shall be prohibited from contributing to any 403(b) program on
7 behalf of any employee for the twelve-month period required under
8 Treasury Regulation Section 1.403(b)-10.

9 SECTION 2. AMENDATORY 70 O.S. 2011, Section 17-105, as
10 last amended by Section 2, Chapter 48, O.S.L. 2017 (70 O.S. Supp.
11 2017, Section 17-105), is amended to read as follows:

12 Section 17-105. (1) (a) Any member who has attained age
13 fifty-five (55) or who has completed thirty (30) years of creditable
14 service, as defined in Section 17-101 of this title, or for any
15 person who initially became a member prior to July 1, 1992,
16 regardless of whether there were breaks in service after July 1,
17 1992, whose age and number of years of creditable service total
18 eighty (80) may be retired upon proper application for retirement on
19 forms established by the System and executing a retirement contract.
20 Such a retirement date will also apply to any person who became a
21 member of the sending system as defined in this act, prior to July
22 1, 1992, regardless of whether there were breaks in service after
23 July 1, 1992. Any person who became a member after June 30, 1992,
24 but prior to November 1, 2011, whose age and number of years of

1 creditable service total ninety (90) may be retired upon proper
2 application for retirement and executing a retirement contract. Any
3 person who becomes a member on or after November 1, 2011, who
4 attains the age of sixty-five (65) years or who reaches a normal
5 retirement date pursuant to subparagraph (d) of paragraph (24) of
6 Section 17-101 of this title having attained a minimum age of sixty
7 (60) years may be retired upon proper application for retirement and
8 executing a retirement contract. The application shall be filed on
9 the form provided by the Board of Trustees for this purpose, not
10 less than sixty (60) days before the date of retirement, provided
11 that the Executive Director may waive the sixty-day deadline for
12 good cause shown as defined by the Board.

13 1. The employer shall provide the System with the
14 following information for a retiring member, no later
15 than the fifteenth day of the month of retirement:
16 last day physically on the job; last day on payroll;
17 any regular compensation not already reported to the
18 System; and final unused sick leave balance.

19 2. Failure to submit this information by the deadline, or
20 errors in submitted information that result in a
21 disqualification of retirement eligibility shall be
22 the responsibility of the employer. In cases where
23 the error results in disqualification of retirement
24 eligibility, it is the employer's responsibility to

1 reemploy the member, or retain the member on the
2 payroll, for the time period required to reach
3 eligibility, not exceeding two (2) months.

4 (b) An individual who becomes a member of the Teachers'
5 Retirement System on or after November 1, 2017, shall be employed by
6 the public schools, state colleges or universities of Oklahoma for a
7 minimum of seven (7) years and be a contributing member of the
8 Teachers' Retirement System of Oklahoma for a minimum of seven (7)
9 years to qualify for monthly retirement benefits from the Teachers'
10 Retirement System of Oklahoma.

11 (c) Any member with seven (7) or more years of Oklahoma
12 teaching service and whose accumulated contributions during such
13 period have not been withdrawn shall be given an indefinite
14 extension of membership beginning with the sixth year following his
15 or her last contributing membership and shall become eligible to
16 apply for retirement and be retired upon attaining age fifty-five
17 (55).

18 (2) An unclassified optional member who has retired or who
19 retires at sixty-two (62) years of age or older or whose retirement
20 is because of disability shall have his or her minimum retirement
21 benefits calculated on an average salary of Five Thousand Three
22 Hundred Fifty Dollars (\$5,350.00) or, if a larger monthly allowance
23 would result, an amount arrived at pursuant to application of the
24 formula prescribed herein.

1 (3) No member shall receive a lesser retirement benefit than he
2 or she would have received under the law in effect at the time he or
3 she retired. Any individual under the Teachers' Retirement System,
4 who through error in stating the title of the position which he or
5 she held, may, at the discretion of the Board of Trustees, be
6 changed from the nonclassified optional group to the classified
7 group for the purpose of calculating retirement benefits.

8 Any individual regardless of residence, who has a minimum of ten
9 (10) years of teaching in Oklahoma schools prior to July 1, 1943, or
10 who taught in Oklahoma schools prior to 1934 and thereafter taught a
11 minimum of ten (10) years and who does not qualify under the present
12 retirement System, or who has a minimum of thirty (30) years of
13 teaching in Oklahoma schools and has reached seventy (70) years of
14 age prior to July 1, 1984, and is not otherwise eligible to receive
15 any benefits from the retirement system shall receive a minimum of
16 One Hundred Fifty Dollars (\$150.00) per month in retirement benefits
17 from the Teachers' Retirement System of Oklahoma plus any general
18 increase in benefits for annuitants as may be provided hereafter by
19 the Legislature. Each individual must apply to the Teachers'
20 Retirement System for such benefit and provide evidence to the
21 Teachers' Retirement System that the service was actually rendered.
22 The surviving spouse of any person who made application for the
23 benefit provided for by this paragraph during his or her lifetime
24 but did not receive said benefit may submit an application to the

1 System for payment of said benefit for those months during the
2 lifetime of the deceased person that he or she was eligible for but
3 did not receive the benefit. Upon approval of the application by
4 the Board of Trustees, the benefit shall be paid to the surviving
5 spouse in one lump sum.

6 (4) The value of each year of prior service is the total
7 monthly retirement benefit divided by the number of years of
8 creditable service.

9 (5) Upon application of a member who is actively engaged in
10 teaching in Oklahoma or his or her employer, any member who has been
11 a contributing member for ten (10) years may be retired by the ~~Board~~
12 ~~of Trustees~~ System subsequent to the execution and filing thereof,
13 on a disability retirement allowance, provided that it is found by
14 the ~~Board of Trustees~~ Medical Board after medical examination of
15 such member by a duly qualified physician that such member is
16 mentally or physically incapacitated for further performance of
17 duty, that such incapacity is likely to be permanent, and that such
18 member should be retired. The ~~Board of Trustees~~ System shall rely
19 on and give due full consideration to the conclusions and
20 recommendations in the certified written report of the Medical Board
21 of the Teachers' Retirement System regarding the disability
22 application of such member. If the Medical Board does not find that
23 a member applying for disability retirement is mentally or
24 physically incapacitated for performance of duty or otherwise

1 eligible for a disability retirement, the application shall then be
2 considered by the Board of Trustees. If a member is determined to
3 be eligible for disability benefits pursuant to the Social Security
4 System, then such determination shall entitle the member to the
5 authorized disability retirement allowance provided by law. For
6 members who are not eligible for disability benefits pursuant to the
7 Social Security System, the Board of Trustees and the Medical Board
8 shall apply the same standard for which provision is made in the
9 first two sentences of this subsection for determining the
10 eligibility of a person for such disability benefits in making a
11 determination of eligibility for disability benefits as authorized
12 by this subsection.

13 (6) (a) A member who at the time of retirement has been found
14 to be permanently physically or mentally incapacitated to teach
15 school shall receive a minimum monthly retirement payment for life
16 or until such time as the member may be found to be recovered to the
17 point where he or she may return to teaching. Any member retired
18 before July 1, 1992, shall be eligible to receive the monthly
19 retirement allowance herein provided, but such payment shall not
20 begin until the first payment due him or her after July 1, 1992, and
21 shall not be retroactive. The Board of Trustees is empowered to
22 make such rules and regulations as it considers proper to preserve
23 equity in retirements under this provision, which shall include a
24 provision to protect the rights of the member's spouse.

(b) A member who has qualified for retirement benefits under disability retirement shall have the total monthly payment deducted from his or her accumulated contributions plus interest earned and any money remaining in the member's account after the above deductions at the death of the member shall be paid in a lump sum to the beneficiary or to the estate of the member. Provided, if the deceased disabled member had thirty (30) years or more of creditable service and the death occurred after June 30, 1981, and death occurred prior to the disabled member receiving twelve monthly retirement payments, a surviving spouse may elect to receive the retirement benefit to which the deceased member would have been entitled at the time of death under the Option 2 Plan of Retirement provided for in subsection (8) of this section in lieu of the death benefit provided for in this subsection and in subsection (12) of this section.

(c) Once each year the ~~Board of Trustees~~ System may require any disabled annuitant who has not yet attained the age of sixty (60) years to undergo a medical examination, such examination to be made at the place of residence for said disabled annuitant or other place mutually agreed upon by a physician or physicians designated by the ~~Board of Trustees~~ System. Should any disabled annuitant who has not yet attained the age of sixty (60) years refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the ~~Board of Trustees~~ System his or her

1 allowance may be discontinued until he or she submits to such
2 examination.

3 (d) Should the Medical Board report and certify to the Board of
4 Trustees that such disabled annuitant is engaged in or is able to
5 engage in a gainful occupation paying more than the difference
6 between his or her retirement allowance and the average final
7 compensation, and should the Board of Trustees concur in such report
8 then the amount of his or her pension shall be reduced to an amount
9 which, together with his or her retirement allowance and that amount
10 earnable by him or her, shall equal the amount of his or her average
11 final compensation. Should his or her earning capacity be later
12 increased, the amount of his or her pension may be further modified,
13 provided the new pension shall not exceed that amount of the pension
14 originally granted nor an amount, which when added to the amount
15 earnable by the member, together with his or her annuity, equals the
16 amount of his or her average final compensation.

17 (e) Should a disabled annuitant be restored to active service,
18 his or her disability retirement allowance shall cease and he or she
19 shall again become a member of the Teachers' Retirement System and
20 shall make regular contributions as required under this article.
21 The unused portion of his or her accumulated contributions shall be
22 reestablished to his or her credit in the Teachers' Savings Fund.
23 Any such prior service certificates on the basis of which his or her
24

1 service was computed at the time of his or her retirement shall be
2 restored to full force and effect.

3 (7) Should a member before retirement under Section 1-101 et
4 seq. of this title make application for withdrawal duly filed with
5 the Board of Trustees and approved by it, not earlier than four (4)
6 months after the date of termination of such service as a teacher,
7 the contribution standing to the credit of his or her individual
8 account in the Teachers' Savings Fund shall be paid to him or her
9 or, in the event of his or her death before retirement, shall be
10 paid to such person or persons as he or she shall have nominated by
11 written designation, duly executed and filed with the Board of
12 Trustees; provided, however, if there be no designated beneficiary
13 surviving upon such death, such contributions shall be paid to his
14 or her administrators, executors, or assigns, together with interest
15 as hereinafter provided. In lieu of a lump-sum settlement at the
16 death of the member, the amount of money the member has on deposit
17 in the Teachers' Savings Fund and the money the member has on
18 deposit in the Teachers' Deposit Fund may be paid in monthly
19 payments to a designated beneficiary, who must be the spouse, under
20 the Maximum or Option 1 Plan of Retirement providing the monthly
21 payment shall be not less than Twenty-five Dollars (\$25.00) per
22 month. The monthly payment shall be the actuarial equivalent of the
23 amount becoming due at the member's death based on the sex of the
24 spouse and the age the spouse has attained at the last birthday

1 prior to the member's death. Provided further, if there be no
2 designated beneficiary surviving upon such death, and the
3 contributions standing to the credit of such member do not exceed
4 Two Hundred Dollars (\$200.00), no part of such contributions shall
5 be subject to the payment of any expense of the last illness or
6 funeral of the deceased member or any expense of administration of
7 the estate of such deceased and the Board of Trustees, upon
8 satisfactory proof of the death of such member and of the name or
9 names of the person or persons who would be entitled to receive such
10 contributions under the laws of descent and distribution of the
11 state, may authorize the payment of accumulated contributions to
12 such person or persons. A member terminating his or her membership
13 by withdrawal after June 30, 2003, shall have the interest computed
14 at a rate of interest determined by the Board of Trustees and paid
15 to him or her subject to the following schedule:

16 (a) If termination occurs within sixteen (16) years from the
17 date membership began, fifty percent (50%) of such interest
18 accumulations shall be paid.

19 (b) With at least sixteen (16) but less than twenty-one (21)
20 years of membership, sixty percent (60%) of such interest
21 accumulations shall be paid.

22 (c) With at least twenty-one (21) but less than twenty-six (26)
23 years of membership, seventy-five percent (75%) of such interest
24 accumulations shall be paid.

1 (d) With at least twenty-six (26) years of membership, ninety
2 percent (90%) of such interest accumulations shall be paid.

3 In case of death of an active member, the interest shall be
4 calculated and restored to the member's account and paid to his or
5 her beneficiary.

6 (8) (a) In lieu of his or her retirement allowance payable
7 throughout life for such an amount as determined under this section,
8 the member may select a retirement allowance for a reduced amount
9 payable under any of the following options the present value of
10 which is the actuarial equivalent thereof.

11 (b) A member may select the option under which he or she
12 desires to retire at the end of the school year in which he or she
13 attains age seventy (70) and said option shall be binding and cannot
14 be changed. Provided further that if a member retires before age
15 seventy (70), no election of an option shall be effective in case an
16 annuitant dies before the first payment due under such option has
17 been received.

18 (c) The first payment of any benefit selected shall be made on
19 the first day of the month following approval of the retirement by
20 the System. If the named designated beneficiary under Option 2 or 3
21 dies at any time after the member's retirement date, but before the
22 death of the member, the member shall return to the retirement
23 benefit, including any post retirement benefit increases the member
24 would have received had the member not selected Option 2 or 3 of

1 this subsection. The benefit shall be determined at the date of
2 death of the designated beneficiary or July 1, 1994, whichever is
3 later. This increase shall become effective the first day of the
4 month following the date of death of the designated beneficiary or
5 July 1, 1994, whichever is later, and shall be payable for the
6 member's remaining lifetime. The member shall notify the Teachers'
7 Retirement System of Oklahoma of the death of the designated
8 beneficiary in writing. In the absence of said written notice being
9 filed by the member notifying the Teachers' Retirement System of
10 Oklahoma of the death of the designated beneficiary within six (6)
11 months of the date of death, nothing in this subsection shall
12 require the Teachers' Retirement System of Oklahoma to pay more than
13 six (6) months of retrospective benefits increase.

14 Option 1. If he or she dies before he or she has received in
15 annuity payments the present value of his or her annuity as it was
16 at the time of his or her retirement, the balance shall be paid to
17 his or her legal representatives or to such person as he or she
18 shall nominate by written designation duly acknowledged and filed
19 with the Board of Trustees at the time of his or her retirement; or

20 Option 2. A member takes a reduced retirement allowance for
21 life. Upon the death of the member the payments shall continue to
22 the member's designated beneficiary for the life of the beneficiary.
23 The written designation of the beneficiary must be duly acknowledged
24 and filed with the Board of Trustees at the time of the member's

1 retirement and, except as provided in paragraph (e) of this
2 subsection, cannot be changed after the effective date of the
3 member's retirement; or

4 Option 3. A member receives a reduced retirement allowance for
5 life. Upon the death of the member one-half (1/2) of the retirement
6 allowance paid the member shall be continued throughout the life of
7 the designated beneficiary. A written designation of a beneficiary
8 must be duly acknowledged and filed with the Board of Trustees at
9 the time of the member's retirement and, except as provided in
10 paragraph (e) of this subsection, cannot be changed after the
11 effective date of the member's retirement; or

12 Option 4. Some other benefit or benefits shall be paid either
13 to the member or to such person or persons as he or she shall
14 nominate, provided such other benefit or benefits, together with the
15 reduced retirement allowance, shall be certified by the actuary to
16 be of equivalent actuarial value to his or her retirement allowance
17 and shall be approved by the Board of Trustees.

18 (d) Provided that Option 2 and Option 3 shall not be available
19 if the member's expected benefit is less than fifty percent (50%) of
20 the lump-sum actuarial equivalent and the designated beneficiary is
21 not the spouse of the member.

22 (e) A member who chose the maximum retirement benefit plan at
23 the time of retirement may make a one-time election to choose either
24 Option 2 or 3 and name the member's spouse as designated beneficiary

1 if the member marries after making the initial election. Such an
2 election shall be made by July 1, 2011, or within one (1) year of
3 the date of marriage, whichever is later. The member shall provide
4 proof of a member's good health before the Board of Trustees will
5 permit a change to either Option 2 or 3 and the naming of a
6 designated beneficiary. A medical examination conducted by a
7 licensed physician is required for purposes of determining good
8 health. Such examination must be approved by the Medical Board.
9 The member shall be required to provide proof of age for the new
10 beneficiary. The Board of Trustees shall adjust the monthly benefit
11 to the actuarially equivalent amount based on the new designated
12 beneficiary's age. The Board of Trustees shall promulgate rules to
13 implement the provisions of this subsection.

14 (f) A member who retires after the effective date of this act
15 and has selected a retirement allowance for a reduced amount payable
16 under one of the options provided for in this subsection may make a
17 one-time irrevocable election to select a different option within
18 sixty (60) days of the member's retirement date. The beneficiary
19 designated by the member at the time of retirement shall not be
20 changed if the member makes the election provided for in this
21 paragraph.

22 (g) Any individual who is eligible to be a beneficiary of a
23 member under this subsection, and who is also a beneficiary of a
24 trust created under the Oklahoma Discretionary and Special Needs

1 Trust Act, Section 175.81 et seq. of Title 60 of the Oklahoma
2 Statutes, or a comparable Trust Act created under the laws of
3 another state, hereinafter collectively referred to as "Trust Acts",
4 may be a beneficiary under this subsection by having the trustee of
5 the trust established for the benefit of that individual named as
6 the legal beneficiary under this subsection. The age of that
7 beneficiary shall be used for calculating any benefit payable to the
8 trust under this subsection. The beneficiary of such a trust shall
9 be treated as the beneficiary under this subsection except that
10 payments of any benefits due under this subsection shall be payable
11 to the lawfully appointed trustee of the trust. The obligation of
12 the System to pay the beneficiary under this subsection shall be
13 satisfied by payment to the trustee whom the System, in good faith,
14 believes to be the lawfully appointed trustee. Any conflict between
15 the statutes creating and governing the Teachers' Retirement System
16 in Section 17-101 et seq. of this title and the provisions of any
17 Trust Act referred to above shall be resolved in favor of the
18 statutes governing the System. If an eligible beneficiary is named
19 at the time of retirement, and becomes a beneficiary of a trust
20 under one of the Trust Acts described herein after that time, the
21 System will acknowledge the trust as the beneficiary upon the
22 submission of adequate documentation of the existence of the trust.
23 All other provisions of this subsection shall apply to these
24 subsequently created trusts.

1 (h) The Board of Trustees of the System may recognize other
2 trusts set up for the benefit of individuals otherwise eligible to
3 be named as a beneficiary under this subsection by administrative
4 rule if it can be done without undue additional administrative
5 expense of the System.

6 (9) The governing board of any "public school", as that term is
7 defined in Section 17-101 of this title, is hereby authorized and
8 empowered to pay additional retirement allowances or compensation to
9 any person who was in the employ of such public school for not less
10 than seven (7) school years preceding the date of his or her
11 retirement. Payments so made shall be a proper charge against the
12 current appropriation or appropriations of any such public school
13 for salaries for the fiscal year in which such payments are made.
14 Such payments shall be made in regular monthly installments in such
15 amounts as the governing board of any such public school, in its
16 judgment, shall determine to be reasonable and appropriate in view
17 of the length and type of service rendered by any such person to
18 such public school by which such person was employed at the time of
19 retirement. All such additional payments shall be uniform, based
20 upon the length of service and the type of services performed, to
21 persons formerly employed by such public school who have retired or
22 been retired in accordance with the provisions of Section 17-101 et
23 seq. of this title.

1 The governing board of any such public school may adopt rules
2 and regulations of general application outlining the terms and
3 conditions under which such additional retirement benefits shall be
4 paid, and all decisions of such board shall be final.

5 (10) In addition to the teachers' retirement herein provided,
6 teachers may voluntarily avail themselves of the Federal Social
7 Security Program upon a district basis.

8 (11) Upon the death of an in-service member, the System shall
9 pay to the designated beneficiary of the member or, if there is no
10 designated beneficiary or if the designated beneficiary predeceases
11 the member, to the estate of the member, the sum of Eighteen
12 Thousand Dollars (\$18,000.00) as a death benefit. Provided, if the
13 deceased member had ten (10) years or more of creditable service and
14 the death occurred after February 1, 1985, the member's designated
15 beneficiary may elect to receive the retirement benefit to which the
16 deceased member would have been entitled at the time of death under
17 the Option 2 plan of retirement in lieu of the death benefit
18 provided for in this subsection. Provided further, the option
19 provided in this subsection is only available when the member has
20 designated one individual as the designated beneficiary. The
21 beneficiary or beneficiaries of death benefits in the amount not to
22 exceed Eighteen Thousand Dollars (\$18,000.00), but exclusive of any
23 retirement benefit received by an electing beneficiary based upon
24 creditable service performed by the deceased member, which are

1 provided pursuant to this subsection may elect to disclaim such
2 death benefits in which case such benefits will be transferred to a
3 person licensed as a funeral director or to a lawfully recognized
4 business entity licensed as required by law to provide funeral
5 services for the deceased member. The qualified disclaimer must be
6 in writing and will be an irrevocable and an unqualified refusal to
7 accept all or a portion of the death benefit. It must be received
8 by the transferor no more than nine (9) months after the later of
9 the day the transfer creating the interest in the disclaiming person
10 is made or the day the disclaiming person attains age twenty-one
11 (21). The interest in the death benefits must pass without
12 direction by the disclaiming person to another person.

13 (12) Upon the death of an annuitant who has contributed to the
14 System, the retirement system shall pay to the designated
15 beneficiary of the annuitant or, if there is no designated
16 beneficiary or if the designated beneficiary predeceases the
17 annuitant, to the estate of the annuitant, the sum of Five Thousand
18 Dollars (\$5,000.00) as a death benefit. The beneficiary or
19 beneficiaries of benefits provided pursuant to this subsection may
20 elect to disclaim such death benefits in which case such benefits
21 will be transferred to a person licensed as a funeral director or to
22 a lawfully recognized business entity licensed as required by law to
23 provide funeral services for the deceased member. The qualified
24 disclaimer must be in writing and will be an irrevocable and an

1 unqualified refusal to accept all or a portion of the death benefit.
2 It must be received by the transferor no more than nine (9) months
3 after the later of the day the transfer creating the interest in the
4 disclaiming person is made or the day the disclaiming person attains
5 age twenty-one (21). The interest in the death benefits must pass
6 without direction by the disclaiming person to another person. The
7 benefit payable pursuant to this subsection shall be deemed, for
8 purposes of federal income taxation, as life insurance proceeds and
9 not as a death benefit if the Internal Revenue Service approves this
10 provision pursuant to a private letter ruling request which shall be
11 submitted by the board of trustees of the System for that purpose.

12 (13) Upon the death of a member who dies leaving no living
13 beneficiary or having designated his or her estate as beneficiary,
14 the System may pay any applicable death benefit, unpaid
15 contributions, or unpaid benefit which may be subject to probate, in
16 an amount of Twenty-five Thousand Dollars (\$25,000.00) or less,
17 without the intervention of the probate court or probate procedure
18 pursuant to Section 1 et seq. of Title 58 of the Oklahoma Statutes.

19 (a) Before any applicable probate procedure may be waived, the
20 System must be in receipt of the member's proof of death and the
21 following documents from those persons claiming to be the legal
22 heirs of the deceased member:

- 23 1. The member's valid last will and testament, trust
24 documents or affidavit that a will does not exist;

2. An affidavit or affidavits of heirship which must state:

- a. the names and signatures of all claiming heirs to the deceased member's estate including the claiming heirs' names, relationship to the deceased, current addresses, tax I.D. numbers if known and current telephone numbers,
- b. a statement or statements by the claiming heirs that no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction,
- c. a description of the personal property claimed, (i.e., death benefit or unpaid contributions or both) together with a statement that such personal property is subject to probate,
- d. a statement by each individual claiming heir identifying the amount of personal property that the heir is claiming from the System, and that the heir has been notified of, is aware of and consents to the identified claims of all the other claiming heirs of the deceased member pending with the System;

3. A written agreement or agreements signed by all claiming heirs of the deceased member which provides

1 that the claiming heirs release, discharge and hold
2 harmless the System from any and all liability,
3 obligations and costs which it may incur as a result
4 of making a payment to any of the deceased member's
5 heirs;

6 4. A corroborating affidavit from an individual other
7 than a claiming heir, who was familiar with the
8 affairs of the deceased member;

9 5. Proof that all debts of the deceased member, including
10 payment of last sickness, hospital, medical, death,
11 funeral and burial expenses have been paid or provided
12 for.

13 (b) The Executive Director of the System shall retain complete
14 discretion in determining which requests for probate waiver may be
15 granted or denied, for any reason. Should the System have any
16 question as to the validity of any document presented by the
17 claiming heirs, or as to any statement or assertion contained
18 therein, the probate requirement provided for in Section 1 et seq.
19 of Title 58 of the Oklahoma Statutes, shall not be waived.

20 (c) After paying any death benefits or unpaid contributions to
21 any claiming heirs as provided pursuant to this subsection, the
22 System is discharged and released from any and all liability,
23 obligation and costs to the same extent as if the System had dealt
24 with a personal representative of the deceased member. The System

1 is not required to inquire into the truth of any matter specified in
2 this subsection or into the payment of any estate tax liability.

3 (14) Upon the death of a retired member, the benefit payment
4 for the month in which the retired member died, if not previously
5 paid, shall be made to the beneficiary of the member or to the
6 member's estate if there is no beneficiary. Such benefit payment
7 shall be made in an amount equal to a full monthly benefit payment
8 regardless of the day of the month in which the retired member died.

9 SECTION 3. AMENDATORY 70 O.S. 2011, Section 17-116.2C,
10 is amended to read as follows:

11 Section 17-116.2C. A. As used in this section:

12 1. "Contribution deficit" means the amount of money computed
13 for an eligible employee by multiplying the employee contribution
14 rate in effect for any period of service performed on or after July
15 1, 1987, through June 30, 1995, multiplied by the amount of salary
16 earned by the member in excess of the applicable maximum
17 compensation level of the member for such period with interest at
18 the rate of ten percent (10%) per year compounded annually;
19 provided, that for the designated fiscal years prescribed by
20 subparagraphs a and b of this paragraph, the contribution deficit
21 payment shall be adjusted to:

- 22 a. fifty percent (50%) of the total amount of the
23 computation otherwise prescribed by this paragraph for
24 the fiscal year ending June 30, 2007,

b. seventy-five percent (75%) of the total amount of the computation otherwise prescribed by this paragraph for the fiscal year ending June 30, 2008, and

c. one hundred percent (100%) of the total amount of the computation otherwise prescribed by this paragraph for the fiscal year ending June 30, 2009, and for each fiscal year thereafter;

2. "Eligible employee" means a member of the System who has not retired prior to the effective date of this act and who has performed service at any time prior to June 30, 1995, and who fulfills the requirements of this act with respect to inclusion of pre-cap removal years of service in a retirement benefit computation and:

a. who has already reached a normal retirement age prior to the effective date of this act and has not retired prior to the effective date of this act,

b. who reaches a normal retirement age on or after the effective date of this act, and

c. who is employed by an institution within The Oklahoma State System of Higher Education that is not a comprehensive university or a regional institution offering a four-year degree program as designated or authorized by the Oklahoma State Regents for Higher Education;

1 3. "Maximum average salary amount", subject to the requirements
2 of this paragraph related to the funding level for employer
3 contribution rates, means:

4 a. Sixty Thousand Dollars (\$60,000.00) regardless of any
5 otherwise applicable maximum compensation level for
6 the fiscal year ending June 30, 2007,

7 b. Eighty Thousand Dollars (\$80,000.00) regardless of any
8 otherwise applicable maximum compensation level for
9 the fiscal year ending June 30, 2008, and

10 c. the full amount of the average salary without any
11 limitation for the fiscal year ending June 30, 2009,
12 and or each fiscal year thereafter.

13 The maximum final average salary amount otherwise authorized
14 pursuant to subparagraph b or subparagraph c of this paragraph shall
15 be contingent upon the participating employer in whose employment
16 the member is active upon the date the member retires receiving, for
17 the fiscal year during which the member's retirement will begin, the
18 amount of funds required pursuant to paragraph 8 of Section 17-108.1
19 of this title in order to allow the employer contribution rates
20 prescribed by paragraphs 6, 7 and 8 of Section 17-108.1 of this
21 title to be effective as law. If a member is employed by an
22 employer that does not receive the funding required by paragraph 8
23 of Section 17-108.1 of this title for the fiscal year during which
24 the member's retirement will begin, the member shall not be

1 authorized to use the maximum final average salary otherwise
2 authorized by this paragraph to compute retirement benefits. ~~A~~
3 ~~member shall be required to have been employed by a participating~~
4 ~~employer for a period of at least twelve (12) months prior to~~
5 ~~retirement in order to compute a retirement benefit using the~~
6 ~~maximum final average salary authorized by this paragraph;~~

7 4. "Maximum compensation level" means either:

- 8 a. Twenty-five Thousand Dollars (\$25,000.00) if a member
9 did not elect to make employee contributions on a
10 higher salary amount for any pre-cap removal years of
11 service, or
12 b. Forty Thousand Dollars (\$40,000.00) if a member did
13 elect to make employee contributions upon actual
14 salary not in excess of such amount for any pre-cap
15 removal years of service;

16 5. "Pre-cap removal service" means any service performed by an
17 active member prior to June 30, 1995; and

18 6. "System" means the Teachers' Retirement System of Oklahoma;

19 B. Unless otherwise expressly provided by this section, any
20 definition contained in Section 17-101 of this title otherwise
21 applicable to computation of benefits for retired members of the
22 Teachers' Retirement System of Oklahoma shall have the same meaning
23 for purposes of this section.
24

1 C. Effective July 1, 2006, any eligible member of the Teachers'
2 Retirement System of Oklahoma, who, as of July 1, 2006, has already
3 reached a normal retirement age or who on or after July 1, 2006,
4 reaches a normal retirement age as defined by paragraph 24 of
5 Section 17-101 of this title, shall be eligible to have a retirement
6 benefit computed as provided by this section. If a member is
7 eligible for the benefit computation authorized by this section, the
8 average salary used to compute the retirement benefit of the member
9 shall be governed by the provisions of this section and such
10 provisions shall govern in the event of conflict between this
11 section and the provisions of Section 17-116.2 of this title.

12 D. An eligible employee who performs service in the manner
13 prescribed by subsection E of this section and who makes payment of
14 the applicable contribution deficit amount may have a retirement
15 benefit computed as otherwise authorized by Section 17-105 of this
16 title, but shall have such benefit computed without regard to any
17 maximum compensation level that would otherwise be applicable to the
18 compensation of the member for any period of pre-cap removal
19 service.

20 E. In order to have retirement benefits computed as authorized
21 by subsection C of this section, and in addition to the payment of
22 the contribution deficit amount required by this section, in order
23 to have any pre-cap removal service included in the retirement
24 benefit computation of the member using the average salary earned

1 during such period of participating service subject to the maximum
2 average salary amount, the member shall be required to perform one
3 (1) year of participating service on or after the date as of which
4 the member reaches a normal retirement age, for each two (2) years
5 of service performed prior to July 1, 1995. For purposes of this
6 section, any year of service performed prior to the effective date
7 of this act after a member reached a normal retirement age shall
8 qualify for purposes of the retirement benefit computation
9 authorized by this section.

10 F. One (1) year of participating service performed by an
11 eligible member who, prior to the effective date of this act has
12 reached a normal retirement age or, who on or after July 1, 2006,
13 reaches a normal retirement age, shall result in the inclusion of
14 the two (2) years of participating service immediately preceding
15 July 1, 1995, in a retirement benefit computation using the average
16 salary of the member, subject to the maximum average salary amount.
17 For each additional year of participating service performed by the
18 eligible member thereafter, whether such service has been performed
19 prior to the effective date of this act or whether such service is
20 performed on or after the effective date of this act, the two (2)
21 next succeeding years of pre-cap removal service performed prior to
22 the end of the preceding two-year period may be included in the
23 benefit computation without regard to the maximum compensation level
24

1 of the member that would otherwise be applicable to such pre-cap
2 removal service.

3 G. The eligible member shall be required to make payment to the
4 Teachers' Retirement System of Oklahoma of the contribution deficit
5 amount for any year of service performed on or after July 1, 1987,
6 but not later than June 30, 1995, as prescribed by subsections H
7 through K of this section in order to have any years of pre-cap
8 removal service included in the retirement benefit computation using
9 the average salary of the member subject to the maximum average
10 salary amount.

11 H. In order to have years of service included in the benefit
12 computation using average salary subject to the maximum average
13 salary amount, the member shall be required to make payment of the
14 contribution deficit for the following years of service and in the
15 sequence prescribed by subsection I of this section according to the
16 adjustments required by subparagraphs a and b of paragraph 1 of
17 subsection A of this section:

- 18 1. July 1, 1987, through June 30, 1988;
- 19 2. July 1, 1988, through June 30, 1989;
- 20 3. July 1, 1989, through June 30, 1990;
- 21 4. July 1, 1990, through June 30, 1991;
- 22 5. July 1, 1991, through June 30, 1992;
- 23 6. July 1, 1992, through June 30, 1993;
- 24 7. July 1, 1993, through June 30, 1994; and

1 8. July 1, 1994, through June 30, 1995.

2 I. For each year of service performed by the eligible member
3 prior to the effective date of this act and after having reached a
4 normal retirement age, or for each year of service performed by the
5 member after reaching a normal retirement age on or after the
6 effective date of this act, the member shall be required to make
7 payment of the contribution deficit amount for each year of service
8 beginning with the years described in paragraphs 7 and 8 of
9 subsection H of this section. For each additional year of service
10 performed by the eligible member after the normal retirement age of
11 the member, the member shall make payment of the contribution
12 deficit amount for each of the next two (2) years of service as
13 described in:

- 14 1. Paragraphs 5 and 6 of subsection H of this section;
15 2. Paragraphs 3 and 4 of subsection H of this section; and
16 3. Paragraphs 1 and 2 of subsection H of this section.

17 J. After making payment of all required contribution deficit
18 amounts for all periods of service described in paragraphs 1 through
19 8 of subsection H of this section, an eligible member who has
20 performed any additional years of service after having reached a
21 normal retirement age, or for each year of service performed by the
22 member after reaching a normal retirement age on or after the
23 effective date of this act, the member may then include any
24 additional two-year period of service performed prior to July 1,

1 1987, using the average salary of the member, subject to the maximum
2 average salary amount, in the retirement benefit computation for
3 such years of service by performing one (1) additional year of
4 service.

5 K. No contribution deficit payments shall be required of the
6 eligible member with respect to years of service performed prior to
7 July 1, 1987, if such years of service are included in the
8 retirement benefit computation of the member using average salary as
9 otherwise authorized by this section, subject to the maximum average
10 salary amount.

11 L. An eligible member may make the payment of the contribution
12 deficit amount required by this section at any time prior to the
13 retirement of the member from the System; however, no years of pre-
14 cap removal service for which full payment of the required
15 contribution deficit has not been made pursuant to the requirements
16 of this section may be included in the retirement benefit
17 computation of the otherwise eligible member using the average
18 salary of the member for such period, subject to the maximum average
19 salary amount.

20 M. Any pre-cap removal years of service for which the required
21 contribution deficit payment has not been made to the System shall
22 only be included in a retirement benefit computation using the
23 maximum compensation level in effect for the member at the time such
24 years of service were performed.

1 N. All payments to the System for pre-cap removal service shall
2 be made prior to the date as of which a member retires. No payments
3 to the System for pre-cap removal service otherwise authorized by
4 this section shall be made after a member retires from the System
5 and begins to receive benefits.

6 O. Any eligible member who, prior to the effective date of this
7 act, has not previously made an election for payment of employee
8 contributions on a maximum compensation level of Twenty-five
9 Thousand Dollars (\$25,000.00) for pre-cap removal service may file
10 an election with the System to make payment of the required
11 contribution deficit amount pursuant to this section. Such an
12 election shall be irrevocable.

13 P. No participating employer of the System shall make payment
14 of any required contribution deficit amount on behalf of any
15 otherwise eligible member, whether directly or indirectly, in order
16 for the member to have retirement benefits computed according to the
17 provisions of this section.

18 Q. No member of the System who has retired prior to July 1,
19 2006, shall be eligible to make any payments of the contribution
20 deficit amount and no such member shall have the ability to have a
21 retirement benefit recomputed as a result of the provisions of this
22 section.

23 R. The additional retirement benefit attributable to the
24 provisions of this section may be computed for members who retire on

1 or after July 1, 2006, but prior to January 1, 2007, but the
2 additional retirement benefit attributable to the provisions of this
3 section shall not be payable until January 1, 2007. On and after
4 January 1, 2007, the additional retirement benefit attributable to
5 the provisions of this section shall be added to the retirement
6 benefit amount of any member who retires on or after July 1, 2006,
7 and prior to January 1, 2007, and such increased benefit amount
8 shall be payable to the member or any beneficiary of the member as
9 otherwise provided pursuant to the provisions of Section 17-101 of
10 this title in the same manner as other retirement benefits are
11 payable.

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