

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1704

By: McDaniel of the House

and

Brown of the Senate

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.

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

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

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

1 still serving in such capacity when the above requirements are
2 complied with, the Justice or judge may elect to retire and may
3 elect whether such retirement shall become effective immediately or
4 at a specified time within the term of the Justice or judge or at
5 the expiration of the term of the Justice or judge. The Justice or
6 judge shall file a written declaration with the System and the Court
7 Administrator of his or her desire to retire. The Court
8 Administrator shall notify the Governor within five (5) business
9 days of receiving the Notice of Retirement.

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

18 C. If any retired member of the System should be elected or
19 appointed to any judicial or other office covered by the System, the
20 retirement compensation of the retired member shall be suspended
21 during the period of time that the retired member holds such office
22 and be reinstated upon leaving such office. Notwithstanding any
23 other provision of this section or any other provision of law to the
24 contrary, a retired Justice or judge shall be permitted to be

1 employed by any college or university within The Oklahoma State
2 System of Higher Education as a full-time or part-time member of the
3 faculty or as a teacher in any common school or career and
4 technology education entity without suspension of retirement
5 benefits.

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

15 1. All service accumulated from date of reemployment shall be
16 computed based on the benefit formula applicable at that time, and
17 the additional benefits shall be added to the previous benefits.
18 Such additional benefits shall be calculated each year based upon
19 additional service accrued from July 1 to June 30 of the previous
20 year and the additional benefits, if any, will be added to the
21 retiree's monthly benefit beginning January 1 of the year after the
22 retiree terminates the post-retirement employment and begins to
23 receive a benefit. However, the post-retirement service credit
24 shall be cumulative, beginning with service credit accrued after the

1 date of retirement, provided that the retiree has not received a
2 distribution of the post-retirement contributions. All post-
3 retirement additional benefits shall be calculated using actual
4 hours worked as well as the actual compensation received and upon
5 which contributions are paid. Post-retirement service is not
6 subject to the partial year round-up provisions of subsection A of
7 this section, and only full years of service will result in an
8 increase in a retiree's benefit.

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

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

22 SECTION 2. AMENDATORY 74 O.S. 2011, Section 913.4, as
23 last amended by Section 12, Chapter 375, O.S.L. 2014 (74 O.S. Supp.
24 2016, Section 913.4), is amended to read as follows:

1 Section 913.4 A. 1. Except as otherwise provided in this
2 subsection, an elected official may elect to participate in the
3 System and if he or she elects to do so shall have the option of
4 participating at any one of the computation factors set forth in
5 paragraph 3 or 4 of this subsection and will receive retirement
6 benefits in accordance with the computation factor chosen. The
7 election on participation in the System must be in writing, must
8 specify the computation factor chosen, and must be filed with the
9 System within ninety (90) days after the elected official takes
10 office. The election to participate and the election of a
11 computation factor shall be irrevocable. Reelection to the same
12 office will not permit new elections. Failure of an elected
13 official to file such election form within the ninety-day period
14 shall be deemed an irrevocable election to participate in the System
15 at the maximum computation factor.

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

23 3. Except as provided in paragraph 4 of this subsection,
24 effective July 1, 1994, the computation factor selected and the

corresponding elected official contribution rate shall be as follows:

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

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

5. The contribution rate for elected officials who are first elected or appointed to an elected office on or after November 1, 2011, shall be in the amount specified in paragraph (a) of subsection (1) of Section 919.1 of this title. The amount of the retirement benefit for elected officials who are first elected or

1 appointed to an elected office on or after November 1, 2011, shall
2 be based on the provisions of paragraph (1) of subsection A of
3 Section 915 of this title.

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

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

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

20 B. The normal retirement date for an elected official shall be
21 the first day of the month coinciding with or following the
22 official's sixtieth birthday or the first day of the month
23 coinciding with or following the date at which the sum of the
24 elected official's age and number of years of credited service total

eighty (80). The normal retirement date for an elected official first elected or appointed to an elected office on or after November 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:

Age	Percentage of Normal 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

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

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

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

1 as an elected official; otherwise, the additional benefits shall be
2 applicable only to service for which the elected official pays the
3 appropriate percent of contributions to the System.

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

23 F. Any elected official who served in the Armed Forces of the
24 United States, as defined in paragraph (23) of Section 902 of this

1 title, prior to membership in the Oklahoma Public Employees
2 Retirement System shall be granted credited service of not to exceed
3 five (5) years for those periods of active military service during
4 which the elected official was a war veteran.

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

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

1 I. In determining the number of years of credited service, a
2 fractional year of six (6) months or more shall be considered as one
3 (1) year, and less than six (6) months or more shall be disregarded.
4 For members who joined the System on or after November 1, 2011, the
5 number of years of credited service shall be based on actual years
6 and months of credited service without rounding up or down.

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

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

SECTION 4. AMENDATORY 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), is amended to read as follows:

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

B. The provisions of subsection A of this section and the provisions of this act shall not be applicable to employees who are initially employed in the positions described in divisions (i), (ii) ~~and, (iii), or (iv)~~ of subparagraph (d) of paragraph (24) of Section 902 of ~~Title 74 of the Oklahoma Statutes~~ this title, district attorneys, assistant district attorneys or other employees of the

1 district attorney's office, and any employees of a county, county
2 elected officials, county hospital, city or town, conservation
3 district, circuit engineering district, and any public or private
4 trust in which a county, city or town participates and is the
5 primary beneficiary.

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

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

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

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

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

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

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10 COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND
11 PENSIONS, dated 02/28/2017 - DO PASS, As Amended and Coauthored.
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