

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 882

By: Montgomery

AS INTRODUCED

An Act relating to the Teachers' Retirement System of Oklahoma; directing creation of defined contribution system for members entering after certain date; establishing provisions for new members entering system; requiring Teachers' Retirement System of Oklahoma to gain federal distinction and authorization; directing System to offer Roth individual retirement account option; providing for members to borrow against certain plans subject to federal requirements; directing promulgation of rules by System; establishing employee and employer contributions subject to certain limitations; directing distribution of funds in defined contribution system; allowing the Legislature to modify certain rates at any time with certain employee rights reserved; providing for certain funds to be paid by certain date to System; establishing process for certain fund distribution through the Office of Management and Enterprise Services; requiring employee contributions to be fully vested; providing vesting schedule for employer contributions; providing for investment options to be determined by employee or System; providing for System to contract with certain entities for certain plan options; providing for payment of certain revenues to System; providing for deposit of funds with existing defined benefit plan; providing for effect of enactment on certain rights; prohibiting certain collection activity with respect to funds; authorizing offsets; providing for enforcement of qualified domestic orders; defining term; prescribing procedures with respect to alternate payees; prescribing content; imposing restrictions; authorizing promulgation of rules; providing for codification; and providing an effective date.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-211 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 2024, the Teachers' Retirement System of Oklahoma shall establish a defined contribution system for newly employed persons of any participating employer of the System.

B. A person employed on or after July 1, 2024 shall become a participant in the defined contribution system and the member shall not accrue any service credit in the defined benefit system previously established by the System.

C. The Board of Trustees of the Teachers' Retirement System of Oklahoma shall take any action that is reasonable and necessary to have the defined contribution system authorized by this act to be recognized as a tax-qualified plan as defined by 26 U.S.C. Section 457. The Board shall take whatever action is reasonable and necessary to obtain confirmation from the Internal Revenue Service that the 457 plan is consistent with the requirements of 26 U.S.C. Section 457.

D. 1. In addition to the plans offered by the defined contribution system, the System shall also offer a Roth individual retirement account subject to any limitations under Section 408A(c) of the Internal Revenue Code of 1986, as amended.

1 2. Members of the System may borrow against any account under
2 their defined contribution plan, provided such borrowing is in
3 compliance with the Internal Revenue Code of 1986, as amended.

4 E. The System shall promulgate rules to effectuate the
5 provisions of this act.

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 17-212 of Title 70, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Employee contributions to the defined contribution system
10 established under Section 1 of this act shall be a default of six
11 percent (6%) and shall allow for a minimum contribution of four
12 percent (4%) of compensation. Employee contributions to the defined
13 contribution system that are eligible for an employer match shall
14 not exceed a percentage, based on the employee's compensation, which
15 would exceed the maximum amount allowed pursuant to Section 415 of
16 the Internal Revenue Code of 1986, as amended.

17 B. Except as otherwise provided by subsection C of this
18 section, employers of employees who become participants in the
19 defined contribution retirement system shall match the employee
20 contribution paid on a monthly or more frequent basis at the rate of
21 six percent (6%) based on the same compensation amount used to
22 compute the employee contribution amount.

23 C. If an employee selects a contribution rate of seven percent
24 (7%) or more, but not higher than allowed pursuant to the maximum

1 annual contribution limit prescribed by Section 415 of the Internal
2 Revenue Code of 1986, as amended, the employer matching amount shall
3 be seven percent (7%).

4 D. The initial four percent (4%) employee contribution shall be
5 the only mandatory contribution of an employee participating in the
6 defined contribution retirement system created by this act. These
7 funds shall be placed by the Teachers' Retirement System of Oklahoma
8 in either a 401(a) plan or a 457(b) plan, to be determined by the
9 Board of Trustees of the Teachers' Retirement System of Oklahoma to
10 maintain the plan consistent with the Internal Revenue Code. Any
11 employee contributions eligible to be matched under this section
12 over the four percent (4%) initial contribution shall be considered
13 voluntary deferrals of compensation and placed in a 457(b) plan.
14 All employer matching funds shall be placed in a 401(a) plan.

15 Any contribution rate that is more than the four percent (4%)
16 rate can be chosen by the participating employee upon the employee's
17 initial participation and can be changed once per month. The
18 employee contribution rate chosen shall continue until the employee
19 elects to change the contribution rate, terminates service, or
20 retires.

21 E. The employer match as set forth in subsection B of this
22 section may be increased at any time by the Legislature without
23 affecting the then-existing rights of participating employees and
24 beneficiaries to encourage participating employees to accumulate
25

1 deferred income reserves for themselves and their dependents. The
2 employer match may be decreased at any time by the Legislature
3 without affecting the then-existing rights of participating
4 employees and beneficiaries in order to provide funding as may be
5 needed to reduce the unfunded liabilities of the defined benefit
6 plan as set forth in Section 17-101 et seq. of Title 70 of the
7 Oklahoma Statutes, but shall not be less than six percent (6%) for
8 any year during which the defined contribution plan is maintained.

9 SECTION 3. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 17-213 of Title 70, unless there
11 is created a duplication in numbering, reads as follows:

12 A. Except as otherwise provided by this section, employers
13 shall make payment to the required matching amount as provided by
14 Section 5 of this act within five (5) business days of the member's
15 payroll pay date. The Teachers' Retirement System of Oklahoma shall
16 ensure the payment is credited to the defined contribution system
17 account of the member as soon as possible.

18 B. All employee contributions to the defined contribution
19 system shall be affected by salary deductions from the salary of the
20 employee and shall be remitted by the participating employer to the
21 System for deposit into the defined contribution system account
22 maintained on behalf of the employee.

23 C. Participating employers whose salary deductions and employer
24 contributions are not remitted to the System through the Office of
25

1 Management and Enterprise Services shall either send all remittances
2 by electronic funds transfer, or place all remittances in a bank
3 account from which the System can debit the amount due, both within
4 five (5) business days of the payroll pay date of the member.
5 Payroll data shall be remitted by the same deadline.

6 D. The Office of Management and Enterprise Services shall
7 cooperate with the Board of Trustees of the Teachers' Retirement
8 System of Oklahoma to ensure compliance with this act.

9 E. Each employer which has employees participating in the
10 defined contribution system shall pay to the System in the same
11 manner and at the same time required for contributions under this
12 section an amount to reimburse the cost of administration of the
13 defined contribution system, as determined by the Board of Trustees
14 of the Teachers' Retirement System of Oklahoma.

15 1. The Board shall certify each year to the Office of
16 Management and Enterprise Services and to participating employers
17 whose salary deductions and employer contributions are not remitted
18 to the System through the Office, the determined amount for the
19 administrative cost of the defined contribution system which will be
20 required to be paid for each participant.

21 2. Each employer shall pay at least monthly to the System the
22 sum sufficient to satisfy the obligation under this section as
23 certified by the Board.
24
25

1 F. The account of each employee participating in the defined
2 contribution system shall consist of the amount in the account plus
3 credits representing employer and employee contributions and minus
4 debits representing any losses, other decrements, or expenses under
5 the system and any distributions made to the employee under the
6 system.

7 SECTION 4. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 17-214 of Title 70, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Members shall at all times be vested at one hundred percent
11 (100%) of the amount of their employee contributions. Members shall
12 have retirement discretion over these contributions within the
13 available options offered by the Board of Trustees of the Teachers'
14 Retirement System of Oklahoma.

15 B. Members shall be vested with respect to the employer
16 matching amounts deposited into their defined contribution system
17 account according to the following schedule based on years of
18 participating service:

19	Year 1	20%
20	Year 2	40%
21	Year 3	60%
22	Year 4	80%
23	Year 5 and thereafter	100%

24
25

1 C. Members shall have investment discretion over all employer
2 contributions.

3 D. For the purposes of determining a member's right to withdraw
4 employer matching contributions and any investment gains upon such
5 employer contribution matching amounts, the vesting percentages
6 apply at the end of each full year of service as described in
7 subsection B of this section.

8 E. For members who do not select any investment options, the
9 Board shall establish default investment options for the
10 contributions received from members and default investment options
11 for matching employer contributions.

12 F. To the extent that participants leave employment and have
13 not vested in all the employer contributions, the nonvested
14 contributions may be used to offset costs of administering the plan.

15 G. The Board shall contract with one or more business entities
16 to create a range of choices regarding investment of funds deposited
17 into defined contribution system accounts. In selecting investment
18 options for participants in the plan, the Board shall give due
19 consideration to offering investment options provided by business
20 entities that provide guaranteed lifetime income in retirement such
21 as annuities, guaranteed investment contracts, or similar products.
22 The Board may amend any of its existing contracts with its current
23 service providers to perform substantially the same type of service
24 the provider is currently performing for the Board, to facilitate

1 the timely introduction of the new defined contribution system
2 created by this act. Thereafter, the contracting process for the
3 selection of service providers carrying out duties related to the
4 administration of the plan shall be the same as the selection
5 process for other providers selected by the Board.

6 SECTION 5. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 17-215 of Title 70, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Each participating employer under the Teachers' Retirement
10 System of Oklahoma shall pick up under the provisions of Section
11 414(h) (2) of the Internal Revenue Code of 1986, as amended, and pay
12 the contribution which the participating employee is required by law
13 to make to the System for all compensation earned after the date as
14 of which an employee begins to participate in the defined
15 contribution system. Although the contributions picked up are
16 designated as participating employee contributions, the
17 contributions shall be treated as contributions being paid by the
18 employer in lieu of contributions by the participating employee in
19 determining tax treatment under the Internal Revenue Code of 1986,
20 as amended, and the picked-up contributions shall not be includable
21 in the gross income of the participating employee until the amounts
22 are distributed or made available to the participating employee or
23 the beneficiary of the participating employee. The participating
24 employee, by the terms of this System, shall not have any option to

1 choose to receive the contributions so picked up directly and the
2 picked-up contributions must be paid by the employer to the System.

3 B. Contributions by the participating employee into a 457(b)
4 plan may not be picked up by the employer but shall be a voluntary
5 deferral of the employee's compensation. Participating employers
6 within the System that have established 457(b) or Roth individual
7 retirement account plans for their employees shall have the
8 obligation to ensure that their employees do not exceed the maximum
9 annual contributions to the plan under the Internal Revenue Code.

10 SECTION 6. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 17-216 of Title 70, unless there
12 is created a duplication in numbering, reads as follows:

13 A. Notwithstanding any other provision of the statutes
14 governing the Teachers' Retirement System of Oklahoma to the
15 contrary, each participating employer shall remit to the System the
16 difference between the amount of money which would be remitted to
17 the System using the employer contribution rate required by Section
18 17-108.1 of Title 70 of the Oklahoma Statutes and the amount of
19 money required for the participating employer to make the required
20 matching contribution amount on behalf of a participating employee
21 who participates in the defined contribution system authorized
22 pursuant to the provisions of Section 2 of this act.

23 B. The System shall deposit the monies remitted to it by
24 employers having participating employees in the defined contribution

1 system created by this act, as described by subsection A of this
2 section, into the existing defined benefit pension plan authorized
3 pursuant to Section 17-101 et seq. of Title 70 of the Oklahoma
4 Statutes to reduce the liabilities of the defined benefit pension
5 plan.

6 SECTION 7. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 17-217 of Title 70, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Except as otherwise provided by this section or in Section 2
10 of this act, no alteration, amendment, or repeal of this act shall
11 affect the then-existing rights of participating employees and
12 beneficiaries but shall be effective only as to rights which would
13 otherwise accrue hereunder as a result of services rendered by an
14 employee after such alteration, amendment, or repeal. Any benefits,
15 fund, property, or rights created by or accruing to any person under
16 the provisions of this act shall not be subject to execution,
17 garnishment, or attachment, or any other process or claim
18 whatsoever, and shall be unassignable, except as specifically
19 provided by this section. Notwithstanding the foregoing, the Board
20 of Trustees of the Teachers' Retirement System of Oklahoma may
21 offset any amounts held by a participant in the plan or beneficiary
22 to pay a judgment or settlement against a participating employee or
23 beneficiary for a crime involving the System, for a fraud or breach
24 of the participating employee's fiduciary duty to the System, or for

1 funds or monies incorrectly paid to a participating employee or a
2 beneficiary, provided such offset is in accordance with the
3 requirements of Section 401(a)(13) or similar provisions of the
4 Internal Revenue Code of 1986, as amended. The offset applies to
5 any assets held in the plan which may otherwise be payable to a
6 participating employee or beneficiary from the plan administered by
7 the Board.

8 B. 1. The provisions of subsection A of this section shall not
9 apply to a qualified domestic order as provided pursuant to this
10 subsection.

11 2. The term "qualified domestic order" means an order issued by
12 a district court of this state pursuant to the domestic relation
13 laws of this state which relates to the provision of marital
14 property rights to a spouse or former spouse of a participating
15 employee or provision of support for a minor child or children and
16 which creates or recognizes the existence of the right of an
17 alternate payee, or assigns to an alternate payee the right, to
18 receive a portion of the funds payable with respect to a participant
19 in the plan.

20 3. For purposes of the payment of marital property, to qualify
21 as an alternate payee a spouse or former spouse must have been
22 married to the related participating employee for a period not less
23 than thirty (30) continuous months immediately preceding the
24

1 commencement of the proceedings from which the qualified domestic
2 order issues.

3 4. A qualified domestic order is valid and binding on the Board
4 and the related participating employee only if it meets the
5 requirements of this subsection.

6 5. A qualified domestic order shall clearly specify:

- 7 a. the name and last-known mailing address (if any) of
8 the participating employee and the name and mailing
9 address of the alternate payee covered by the order,
10 b. the amount or percentage of the participating
11 employee's funds or assets to be paid by the System to
12 the alternate payee,
13 c. the number of payments or period to which such order
14 applies,
15 d. the characterization of the benefit as to marital
16 property rights or child support, and
17 e. each plan to which such order applies.

18 6. A qualified domestic order meets the requirements of this
19 subsection only if such order:

- 20 a. does not require the System to provide any type or
21 form of benefit, or any option not otherwise provided
22 under state law as relates to the System,
23 b. does not require the System to provide increased
24 benefits, and
25

1 c. does not require the payment of funds or assets to an
2 alternate payee which are required to be paid to
3 another alternate payee pursuant to another order
4 previously determined to be a qualified domestic order
5 or an order recognized by the System as a valid order
6 prior to July 1, 2024.

7 7. This subsection shall not be subject to the provisions of
8 the Employee Retirement Income Security Act of 1974 (ERISA), 29
9 U.S.C., Section 1001 et seq., as amended from time to time, or rules
10 and regulations promulgated thereunder, and court cases interpreting
11 the act.

12 8. The Board shall promulgate such rules as are necessary to
13 implement the provisions of this subsection.

14 9. An alternate payee who has acquired beneficiary rights
15 pursuant to a valid qualified domestic order must fully comply with
16 all provisions of the rules promulgated by the Board pursuant to
17 this subsection to continue receiving his or her benefit.

18 SECTION 8. This act shall become effective November 1, 2023.

19
20 59-1-387 RD 1/19/2023 10:09:40 AM
21
22
23
24
25