

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1004

By: McDaniel (Randy) of the
House

and

Mazzei of the Senate

COMMITTEE SUBSTITUTE

An Act relating to public retirement systems; enacting the Leadership by Example Act; providing for defined contribution plan for elected officials based on elected official service on or after designated date; requiring Board of Trustees of Oklahoma Public Employees Retirement System to establish defined contribution plan account; authorizing Board of Trustees to contract for certain third-party services; requiring private letter request to the Internal Revenue Service regarding tax-qualified status of defined contribution plan; providing for election regarding member contribution; providing for matching amount; providing for establishment of defined contribution plan accounts similar to options available pursuant to deferred compensation plan; providing for vesting of member contributions; providing for vesting of matching employer contribution amounts; providing for withdrawal of plan account balance based upon vesting schedule; providing for period of authorized participation in defined contribution plan; prescribing procedures upon termination of service; amending 74 O.S. 2001, Sections 902, as last amended by Section 1, Chapter 435, O.S.L. 2010, 913.4, as last amended by Section 2, Chapter 435, O.S.L. 2010 and 920, as last amended

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 by Section 1, Chapter 472, O.S.L. 2010 (74 O.S. Supp.
2 2010, Sections 902, 913.4 and 920), which relate to
3 the Oklahoma Public Employees Retirement System;
4 modifying definitions; modifying provisions related
5 to retirement benefit computations for elected
6 officials; modifying provisions related to
7 contributions for elected officials; providing for
8 codification; and providing for noncodification.

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

9 SECTION 1. NEW LAW A new section of law not to be
10 codified in the Oklahoma Statutes reads as follows:

11 This act shall be known and may be cited as the "Leadership by
12 Example Act".

13 SECTION 2. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 913.4A of Title 74, unless there
15 is created a duplication in numbering, reads as follows:

16 A. For elected officials whose first service as an elected or
17 appointed official member of the Oklahoma Public Employees
18 Retirement System occurs on or after the effective date of this act,
19 the retirement benefit for such elected official shall be governed
20 by the provisions of this section and the elected official shall not
21 have retirement benefits computed pursuant to Section 913.4 of Title
22 74 of the Oklahoma Statutes.

1 B. The Board of Trustees of the Oklahoma Public Employees
2 Retirement System shall establish a defined contribution plan for
3 elected officials whose first service as an elected or appointed
4 official occurs on or after the effective date of this act. The
5 Board of Trustees shall make a request pursuant to the private
6 letter determination process prescribed by the provisions of the
7 Internal Revenue Code of 1986, as amended, and any applicable rules
8 of the Internal Revenue Service, that the defined contribution plan
9 required by this section is a tax-qualified retirement plan. Such
10 request shall be made not later than sixty (60) days after the
11 effective date of this act.

12 C. Elected officials may make an election to contribute three
13 and one-half percent (3.5%) of their compensation to a defined
14 contribution plan account. The state or local government entity
15 responsible for compensation of the official shall provide a
16 matching payment to the defined contribution plan account
17 established for the elected official equal to three and one-half
18 percent (3.5%) of the compensation amount.

19 D. At the option of the elected official, an elected official
20 may make an election to contribute ten percent (10%) of their
21 compensation to a defined contribution plan account. The state or
22 local government entity responsible for compensation of the official
23
24

1 shall provide a matching payment to the defined contribution plan
2 account equal to six percent (6%) of the compensation amount.

3 E. The Board of Trustees of the Oklahoma Public Employees
4 Retirement System shall establish or shall contract with a third-
5 party provider to establish a range of defined contribution plan
6 accounts similar to the accounts available to members of the
7 Oklahoma Public Employees Retirement System who participate in the
8 deferred compensation arrangement authorized pursuant to Section
9 1701 of Title 74 of the Oklahoma Statutes.

10 F. Elected officials shall be vested at one hundred percent
11 (100%) with respect to their member contributions at all times
12 during their participation in the defined contribution plan
13 authorized by this section.

14 G. Elected officials shall be vested with respect to matching
15 employer contributions according to the following schedule:

- 16 1. Twenty percent (20%) after one (1) year of service;
- 17 2. Forty percent (40%) after two (2) years of service;
- 18 3. Sixty percent (60%) after three (3) years of service;
- 19 4. Eighty percent (80%) after four (4) years of service; and
- 20 5. One hundred percent (100%) vested after five (5) years of
21 service.

22 H. Member contributions and employer matching contributions to
23 the extent the elected official is vested as provided by subsection
24

1 G of this section may be withdrawn upon termination from
2 participation in the defined contribution plan.

3 I. There shall be no limit on the maximum period of
4 participation in the defined contribution plan authorized by this
5 section except as may be imposed pursuant to the provisions of the
6 Internal Revenue Code of 1986, as amended, or any applicable rules
7 of the Internal Revenue Service.

8 J. Upon termination of service as an elected official, the
9 elected official shall be able to receive a distribution from the
10 defined contribution plan account according to the terms for such
11 distributions as established by the Board of Trustees or as
12 established by the requirements applicable to any defined
13 contribution plan account maintained for the benefit of the elected
14 official by a third-party provider.

15 SECTION 3. AMENDATORY 74 O.S. 2001, Section 902, as last
16 amended by Section 1, Chapter 435, O.S.L. 2010 (74 O.S. Supp. 2010,
17 Section 902), is amended to read as follows:

18 Section 902. As used in Section 901 et seq. of this title:

19 (1) "System" means the Oklahoma Public Employees Retirement
20 System as established by this act and as it may hereafter be
21 amended;

22 (2) "Accumulated contributions" means the sum of all
23 contributions by a member to the System which shall be credited to
24

1 the member's account, including contributions paid into a defined
2 contribution plan account pursuant to Section 2 of this act;

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

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

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

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

11 (7) "Beneficiary" means any person named by a member to receive
12 any benefits as provided for by Section 901 et seq. of this title.

13 If there is no beneficiary living at time of member employee's
14 death, the member's estate shall be the beneficiary;

15 (8) "Board" means the Oklahoma Public Employees Retirement
16 System Board of Trustees;

17 (9) "Compensation" means all salary and wages, as defined by
18 the Board of Trustees, including amounts deferred under deferred
19 compensation agreements entered into between a member and a
20 participating employer, but exclusive of payment for overtime,
21 payable to a member of the System for personal services performed
22 for a participating employer but shall not include compensation or

23

24

1 reimbursement for traveling, or moving expenses, or any compensation
2 in excess of the maximum compensation level, provided:

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

6 For compensation for service on or after January 1,
7 1988, through June 30, 1994, the maximum compensation
8 level shall be Forty Thousand Dollars (\$40,000.00) per
9 annum.

10 For compensation for service on or after July 1, 1994,
11 through June 30, 1995, the maximum compensation level
12 shall be Fifty Thousand Dollars (\$50,000.00) per
13 annum; for compensation for service on or after July
14 1, 1995, through June 30, 1996, the maximum

15 compensation level shall be Sixty Thousand Dollars
16 (\$60,000.00) per annum; for compensation for service
17 on or after July 1, 1996, through June 30, 1997, the
18 maximum compensation level shall be Seventy Thousand
19 Dollars (\$70,000.00) per annum; and for compensation
20 for service on or after July 1, 1997, through June 30,
21 1998, the maximum compensation level shall be Eighty
22 Thousand Dollars (\$80,000.00) per annum. For
23 compensation for services on or after July 1, 1998,
24

1 there shall be no maximum compensation level for
2 retirement purposes.

3 (b) Compensation for retirement purposes shall include any
4 amount of elective salary reduction under Section 457
5 of the Internal Revenue Code of 1986 and any amount of
6 nonelective salary reduction under Section 414(h) of
7 the Internal Revenue Code of 1986.

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

14 (d) Current appointed members of the Oklahoma Tax
15 Commission whose salary is constitutionally limited
16 and is less than the highest salary allowed by law for
17 his or her position shall be allowed, within ninety
18 (90) days from the effective date of this act, to make
19 an election to use the highest salary allowed by law
20 for the position to which the member was appointed for
21 the purposes of making contributions and determination
22 of retirement benefits. Such election shall be
23 irrevocable and be in writing. Reappointment to the
24

1 same office shall not permit a new election. Members
2 appointed to the Oklahoma Tax Commission after the
3 effective date of this act shall make such election,
4 pursuant to this subparagraph, within ninety (90) days
5 of taking office;

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

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

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

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

1 (a) If a class or several classes of employees of any
2 above-defined employers are covered by Social Security
3 and are not covered by or eligible for and will not
4 become eligible for another retirement plan authorized
5 under the laws of this state, which is in operation on
6 the effective date, such employer shall be deemed an
7 eligible employer, but only with respect to that class
8 or those classes of employees as defined in this
9 section.

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

1 agency of state government administering the state or
2 federal funds shall be deemed an eligible employer,
3 but only with respect to that class or those classes
4 of employees as defined in this subsection; provided,
5 that the required contributions to the retirement plan
6 may be withheld from the contributions of state or
7 federal funds administered by the state agency and
8 transmitted to the System on the same basis as the
9 employee and employer contributions are transmitted
10 for the direct employees of the state agency. The
11 retirement or eligibility for retirement under the
12 provisions of law providing pensions for service as a
13 volunteer fire fighter shall not render any person
14 ineligible for participation in the benefits provided
15 for in Section 901 et seq. of this title. An employee
16 of any public or private trust in which a county, city
17 or town participates and is the primary beneficiary
18 shall be deemed to be an eligible employee for the
19 purpose of this act only.

- 20 (c) All employees of the George Nigh Rehabilitation
21 Institute who elected to retain membership in the
22 System, pursuant to Section 913.7 of this title, shall
23 continue to be eligible employees for the purposes of
24

1 this act. The George Nigh Rehabilitation Institute
2 shall be considered a participating employer only for
3 such employees.

4 (d) A participating employer of the Teachers' Retirement
5 System of Oklahoma, who has one or more employees who
6 have made an election pursuant to enabling legislation
7 to retain membership in the System as a result of
8 change in administration, shall be considered a
9 participating employer of the Oklahoma Public
10 Employees Retirement System only for such employees;

11 (14) "Employee" means any officer or employee of a
12 participating employer, whose employment is not seasonal or
13 temporary and whose employment requires at least one thousand
14 (1,000) hours of work per year and whose salary or wage is equal to
15 the hourly rate of the monthly minimum wage for state employees.
16 For those eligible employers outlined in Section 910 of this title,
17 the rate shall be equal to the hourly rate of the monthly minimum
18 wage for that employer. Each employer, whose minimum wage is less
19 than the state's minimum wage, shall inform the System of the
20 minimum wage for that employer. This notification shall be by
21 resolution of the governing body.

- 1 (a) Any employee of the county extension agents who is not
2 currently participating in the Teachers' Retirement
3 System of Oklahoma shall be a member of this System.
- 4 (b) Eligibility shall not include any employee who is a
5 contributing member of the United States Civil Service
6 Retirement System.
- 7 (c) It shall be mandatory for an officer, appointee or
8 employee of the office of district attorney to become
9 a member of this System if he or she is not currently
10 participating in a county retirement system. Provided
11 further, that if an officer, appointee or employee of
12 the office of district attorney is currently
13 participating in such county retirement system, he or
14 she is ineligible for this System as long as he or she
15 is eligible for such county retirement system. Any
16 eligible officer, appointee or employee of the office
17 of district attorney shall be given credit for prior
18 service as defined in this section. The provisions
19 outlined in Section 917 of this title shall apply to
20 those employees who have previously withdrawn their
21 contributions.
- 22 (d) Eligibility shall also not include any officer or
23 employee of the Oklahoma Employment Security
24

1 Commission, except for those officers and employees of
2 the Commission electing to transfer to this System
3 pursuant to the provisions of Section 910.1 of this
4 title or any other class of officers or employees
5 specifically exempted by the laws of this state,
6 unless there be a consolidation as provided by Section
7 912 of this title. Employees of the Oklahoma
8 Employment Security Commission who are ineligible for
9 enrollment in the Employment Security Commission
10 Retirement Plan, that was in effect on January 1,
11 1964, shall become members of this System.

- 12 (e) Any employee employed by the Legislative Service
13 Bureau, State Senate or House of Representatives for
14 the full duration of a regular legislative session
15 shall be eligible for membership in the System
16 regardless of classification as a temporary employee
17 and may participate in the System during the regular
18 legislative session at the option of the employee.
19 For purposes of this subparagraph, the determination
20 of whether an employee is employed for the full
21 duration of a regular legislative session shall be
22 made by the Legislative Service Bureau if such
23 employee is employed by the Legislative Service

1 Bureau, the State Senate if such employee is employed
2 by the State Senate, or by the House of
3 Representatives if such employee is employed by the
4 House of Representatives. Each regular legislative
5 session during which the legislative employee or an
6 employee of the Legislative Service Bureau
7 participates full time shall be counted as six (6)
8 months of full-time participating service.

9 (i) Except as otherwise provided by this
10 subparagraph, once a temporary session employee
11 makes a choice to participate or not, the choice
12 shall be binding for all future legislative
13 sessions during which the employee is employed.

14 (ii) Notwithstanding the provisions of division (i) of
15 this subparagraph, any employee, who is eligible
16 for membership in the System because of the
17 provisions of this subparagraph and who was
18 employed by the State Senate or House of
19 Representatives after January 1, 1989, may file
20 an election, in a manner specified by the Board,
21 to participate as a member of the System prior to
22 September 1, 1989.

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

13 (iv) A member of the System who did not initially
14 elect to participate as a member of the System
15 pursuant to this subparagraph ~~(e) of this~~
16 ~~paragraph~~ shall be able to acquire service
17 performed as a temporary legislative session
18 employee for periods of service performed prior
19 to the date upon which the person became a member
20 of the System if:

- 21 a. the member files an election with the System
22 not later than December 31, 2000, to
23 purchase the prior service; and

1 b. the member makes payment to the System of
2 the actuarial cost of the service credit
3 pursuant to subsection A of Section 913.5 of
4 this title. The provisions of Section 913.5
5 of this title shall be applicable to the
6 purchase of the service credit, including
7 the provisions for determining service
8 credit in the event of incomplete payment
9 due to cessation of payments, death,
10 termination of employment or retirement, but
11 the payment may extend for a period not to
12 exceed ninety-six (96) months;

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

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

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

22 (18) "Final average compensation" means the average annual
23 compensation, including amounts deferred under deferred compensation

1 agreements entered into between a member and a participating
2 employer, up to, but not exceeding the maximum compensation levels
3 as provided in paragraph (9) of this section received during the
4 highest three (3) of the last ten (10) years of participating
5 service immediately preceding retirement or termination of
6 employment. Provided, no member shall retire with a final average
7 compensation unless the member has made the required contributions
8 on such compensation, as defined by the Board of Trustees;

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

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

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

20 (22) "Member" means an eligible employee or elected official
21 who is in the System and is making the required employee or elected
22 official contributions, or any former employee or elected official
23
24

1 who shall have made the required contributions to the System and
2 shall have not received a refund or withdrawal;

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

8 (a) during the following periods, including the beginning
9 and ending dates, and only for the periods served,
10 from:

11 (i) April 6, 1917, to November 11, 1918, commonly
12 referred to as World War I,

13 (ii) September 16, 1940, to December 7, 1941, as a
14 member of the 45th Division,

15 (iii) December 7, 1941, to December 31, 1946, commonly
16 referred to as World War II,

17 (iv) June 27, 1950, to January 31, 1955, commonly
18 referred to as the Korean Conflict or the Korean
19 War,

20 (v) February 28, 1961, to May 7, 1975, commonly
21 referred to as the Vietnam era, except that:

22 a. for the period from February 28, 1961, to
23 August 4, 1964, military service shall only
24

1 include service in the Republic of Vietnam
2 during that period, and

3 b. for purposes of determining eligibility for
4 education and training benefits, such period
5 shall end on December 31, 1976, or

6 (vi) August 1, 1990, to December 31, 1991, commonly
7 referred to as the Gulf War, the Persian Gulf
8 War, or Operation Desert Storm, but excluding any
9 person who served on active duty for training
10 only, unless discharged from such active duty for
11 a service-connected disability;

12 (b) during a period of war or combat military operation
13 other than a conflict, war or era listed in
14 subparagraph (a) of this paragraph, beginning on the
15 date of Congressional authorization, Congressional
16 resolution, or Executive Order of the President of the
17 United States, for the use of the Armed Forces of the
18 United States in a war or combat military operation,
19 if such war or combat military operation lasted for a
20 period of ninety (90) days or more, for a person who
21 served, and only for the period served, in the area of
22 responsibility of the war or combat military
23 operation, but excluding a person who served on active

1 duty for training only, unless discharged from such
2 active duty for a service-connected disability, and
3 provided that the burden of proof of military service
4 during this period shall be with the member, who must
5 present appropriate documentation establishing such
6 service.

7 An eligible member under this paragraph shall include only those
8 persons who shall have served during the times or in the areas
9 prescribed in this paragraph, and only if such person provides
10 appropriate documentation in such time and manner as required by the
11 System to establish such military service prescribed in this
12 paragraph, or for service pursuant to subdivision a of division (v)
13 of subparagraph (a) of this paragraph those persons who were awarded
14 service medals, as authorized by the United States Department of
15 Defense as reflected in the veteran's Defense Department Form 214,
16 related to the Vietnam Conflict for service prior to August 5, 1964;

17 (24) "Normal retirement date" means the date on which a member
18 may retire with full retirement benefits as provided in Section 901
19 et seq. of this title, but shall not be applicable to elected
20 officials whose first service as an elected official occurs on or
21 after the effective date of this act, and who participate in the
22 defined contribution plan authorized by Section 2 of this act, such
23
24

1 date being whichever occurs first with respect to other members of
2 the retirement system:

- 3 (a) the first day of the month coinciding with or
4 following a member's sixty-second birthday,
- 5 (b) for any person who initially became a member prior to
6 July 1, 1992, the first day of the month coinciding
7 with or following the date at which the sum of a
8 member's age and number of years of credited service
9 total eighty (80); such a normal retirement date will
10 also apply to any person who became a member of the
11 sending system as defined in Section 901 et seq. of
12 this title, prior to July 1, 1992, regardless of
13 whether there were breaks in service after July 1,
14 1992,
- 15 (c) for any person who became a member after June 30,
16 1992, the first day of the month coinciding with or
17 following the date at which the sum of a member's age
18 and number of years of credited service total ninety
19 (90),
- 20 (d) in addition to subparagraphs (a), (b) and (c) of this
21 paragraph, the first day of the month coinciding with
22 or following a member's completion of at least twenty
23 (20) years of full-time-equivalent employment as:

24

1 (i) a correctional or probation and parole officer
2 with the Department of Corrections and at the
3 time of retirement, the member was a correctional
4 or probation and parole officer with the
5 Department of Corrections, or

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

21 (iii) a firefighter with the Oklahoma Military
22 Department either employed for the first time on
23 or after July 1, 2002, or who was employed prior
24

1 to July 1, 2002, in such position and who makes
2 the election authorized by division (2) of
3 subparagraph b of paragraph (8) of subsection A
4 of Section 915 of this title and at the time of
5 retirement, the member was a firefighter with the
6 Oklahoma Military Department, and such member has
7 at least twenty (20) years of credited service
8 upon which the two and one-half percent (2 1/2%)
9 multiplier will be used in calculating the
10 retirement benefit,

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

19 (f) for any member who was continuously employed by an
20 entity or institution within The Oklahoma State System
21 of Higher Education and whose initial employment with
22 such entity or institution was prior to July 1, 1992,
23 and who without a break in service of more than thirty
24

1 (30) days became employed by an employer participating
2 in the Oklahoma Public Employees Retirement System,
3 the first day of the month coinciding with or
4 following the date at which the sum of the member's
5 age and number of years of credited service total
6 eighty (80);

7 (25) "Participating employer" means an eligible employer who
8 has agreed to make contributions to the System on behalf of its
9 employees;

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

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

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

17 (29) "Retirement benefit" means a monthly income with benefits
18 accruing from the first day of the month coinciding with or
19 following retirement and ending on the last day of the month in
20 which death occurs or the actuarial equivalent thereof paid in such
21 manner as specified by the member pursuant to Section 901 et seq. of
22 this title or as otherwise allowed to be paid at the discretion of
23
24

1 the Board or the distribution from a defined contribution plan
2 account as provided by Section 2 of this act;

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

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

8 (32) "Total disability" means a physical or mental disability
9 accepted for disability benefits by the Federal Social Security
10 System;

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

15 (34) "Elected official" means a person elected to a state
16 office in the legislative or executive branch of state government or
17 a person elected to a county office for a definite number of years
18 and shall include an individual who is appointed to fill the
19 unexpired term of an elected state official;

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

22

23

24

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

4 SECTION 4. AMENDATORY 74 O.S. 2001, Section 913.4, as
5 last amended by Section 2, Chapter 435, O.S.L. 2010 (74 O.S. Supp.
6 2010, Section 913.4), is amended to read as follows:

7 Section 913.4 A. 1. ~~An~~ For an elected official whose initial
8 service as an elected official occurs prior to the effective date of
9 this act, an elected official may elect to participate in the System
10 and if he or she elects to do so shall have the option of
11 participating at any one of the computation factors set forth in
12 ~~paragraphs~~ paragraph 3 or 4 of this subsection and will receive
13 retirement benefits in accordance with the computation factor
14 chosen. The election on participation in the System must be in
15 writing, must specify the computation factor chosen, and must be
16 filed with the System within ninety (90) days after the elected
17 official takes office. The election to participate and the election
18 of a computation factor shall be irrevocable. Reelection to the
19 same office will not permit new elections. Failure of an elected
20 official to file such election form within the ninety-day period
21 shall be deemed an irrevocable election to participate in the System
22 at the maximum computation factor.

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

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

Elected official 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, but prior to the effective date of this act, shall elect a computation factor of either 1.9% or 4%. The elected official contribution rate for the

1 1.9% computation factor is currently 4.5% and the contribution rate
 2 for the 4% computation factor is currently 10%. All other
 3 computation factors and contribution rates set forth in paragraph 3
 4 of this subsection shall not be available to any person first
 5 elected or appointed to an elected office on or after November 1,
 6 2010.

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

12 B. The normal retirement date for an elected official shall be
 13 the first day of the month coinciding with or following the
 14 official's sixtieth birthday or the first day of the month
 15 coinciding with or following the date at which the sum of the
 16 elected official's age and number of years of credited service total
 17 eighty (80). Any elective official who has a minimum of ten (10)
 18 years' participating service may retire under the early retirement
 19 provisions of this act, including those electing a vested benefit
 20 and shall receive an adjustment of annual benefits in accordance
 21 with the following percentage schedule:

	Percentage of Normal
Age	Retirement Benefits

1	60	100%
2	59	94%
3	58	88%
4	57	82%
5	56	76%
6	55	70%

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

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

21 3. Elected officials who become members of the Oklahoma Public
22 Employees Retirement System on or after August 22, 2008, but prior
23 to the effective date of this act, will receive retirement benefits

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

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

19 D. Any elected official making an election to participate at a
20 computation factor less than the maximum and later selecting a
21 higher computation factor shall contribute to the System a sum equal
22 to the amount which the elected official would have contributed if
23 the elected official had made such election at the time the elected
24

1 official first became eligible, plus interest as determined by the
2 Board, in order to receive the additional benefits for all service
3 as an elected official; otherwise, the additional benefits shall be
4 applicable only to service for which the elected official pays the
5 appropriate percent of contributions to the System.

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

21 F. Any elected official who served in the Armed Forces of the
22 United States, as defined in paragraph (23) of Section 902 of this
23 title, prior to membership in the Oklahoma Public Employees
24

1 Retirement System shall be granted credited service of not to exceed
2 five (5) years for those periods of active military service during
3 which the elected official was a war veteran.

4 G. Any one appointed or elected to an elected position after
5 July 1, 1990, shall not be eligible to receive benefits as provided
6 in this section until such person has participated as an elected
7 official for six (6) years.

8 H. Elected officials who terminate participation in the System
9 and who have a minimum of six (6) years of participating service
10 shall be entitled to elect a vested benefit and shall be entitled to
11 the retirement options as provided in Section 918 of this title in
12 lieu of the survivors benefit provided above.

13 SECTION 5. AMENDATORY 74 O.S. 2001, Section 920, as last
14 amended by Section 1, Chapter 472, O.S.L. 2010 (74 O.S. Supp. 2010,
15 Section 920), is amended to read as follows:

16 Section 920. (1) Effective July 1, 1994, every state agency
17 which is a participating employer shall contribute to the System an
18 amount equal to eleven and one-half percent (11 1/2%) of the monthly
19 compensation of each member, but not in excess of Forty Thousand
20 Dollars (\$40,000.00).

21 (2) Effective July 1, 1995, every state agency which is a
22 participating employer shall contribute to the System an amount
23 equal to eleven and one-half percent (11 1/2%) of the monthly
24

1 compensation of each member, not to exceed the allowable annual
 2 compensation as defined in paragraph (9) of Section 902 of this
 3 title.

4 (3) Effective July 1, 1996, every state agency which is a
 5 participating employer shall contribute to the System an amount
 6 equal to twelve percent (12%) of the monthly compensation of each
 7 member, not to exceed the allowable annual compensation defined in
 8 paragraph (9) of Section 902 of this title.

9 (4) Effective July 1, 1999, and through the fiscal year ending
 10 June 30, 2005, every state agency which is a participating employer
 11 shall contribute to the System an amount equal to ten percent (10%)
 12 of the monthly compensation of each member, not to exceed the
 13 allowable annual compensation defined in paragraph (9) of Section
 14 902 of this title.

15 (5) (a) Effective July 1, 2005, every state agency which is a
 16 participating employer shall contribute an amount to
 17 the System equal to a percentage of monthly
 18 compensation of each member, not to exceed the
 19 allowable annual compensation defined in paragraph (9)
 20 of Section 902 of this title as follows:

21	July 1, 2005 - June 30, 2006	11 1/2%
22	July 1, 2006 - June 30, 2007	12 1/2%
23	July 1, 2007 - June 30, 2008	13 1/2%

1	July 1, 2008 - June 30, 2009	14 1/2%
2	July 1, 2009 - June 30, 2011	15 1/2%
3	July 1, 2011 - June 30, 2012	
4	and each year thereafter	16 1/2%

5 (b) On and after the effective date of this act, with
6 respect to the contribution made for an elected
7 official, the applicable state or local governmental
8 entity shall make payment of the full amount of the
9 employer contribution as required by the provisions of
10 this section to the Oklahoma Public Employees
11 Retirement System. The Oklahoma Public Employees
12 Retirement System shall make any required matching
13 payment based on the election of the official pursuant
14 to subsection D of Section 2 of this act to the
15 defined contribution plan account established or
16 maintained for the benefit of the elected official.
17 The balance of the employer contribution amount with
18 respect to the elected official shall be deposited in
19 the same manner as other employer contribution amounts
20 to the credit of the defined benefit plan created
21 pursuant to Section 903 of this title, qualified
22 pursuant to Section 401(a) of the Internal Revenue

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 Code of 1986, as amended, and which is maintained for
2 the benefit of other members of the System.

3 (6) The Board shall certify, on or before November 1 of each
4 year, to the Office of State Finance an actuarially determined
5 estimate of the rate of contribution which will be required,
6 together with all accumulated contributions and other assets of the
7 System, to be paid by each participating employer to pay all
8 liabilities which shall exist or accrue under the System, including
9 amortization of the past service cost over a period of not to exceed
10 forty (40) years from June 30, 1987, and the cost of administration
11 of the System, as determined by the Board, upon recommendation of
12 the actuary.

13 (7) The Office of State Finance and the Governor shall include
14 in the budget and in the budget request for appropriations the sum
15 required to satisfy the state's obligation under this section as
16 certified by the Board and shall present the same to the Legislature
17 for allowance and appropriation.

18 (8) Each other participating employer shall appropriate and pay
19 to the System a sum sufficient to satisfy the obligation under this
20 section as certified by the Board.

21 (9) Each participating employer is hereby authorized to pay the
22 employer's contribution from the same fund that the compensation for
23
24

1 which said contribution is paid from or from any other funds
2 available to it for such purpose.

3 (10) Forfeitures arising from severance of employment, death or
4 for any other reason may not be applied to increase the benefits any
5 member would otherwise receive under the System's law. However,
6 forfeitures may be used to reduce an employer's contribution.

7 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM AND
8 FINANCIAL SERVICES, dated 02-17-2011 - DO PASS, As Amended and
9 Coauthored.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24