

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 190

By: Allen

AS INTRODUCED

An Act relating to public employee retirement; amending 74 O.S. 2011, Section 913.4, as last amended by Section 47, Chapter 25, O.S.L. 2019 (74 O.S. Supp. 2020, Section 913.4), which relates to elected officials; providing exception to retirement options for elected officials; amending Section 2, Chapter 375, O.S.L. 2014, as last amended by Section 4, Chapter 94, O.S.L. 2017 (74 O.S. Supp. 2020, Section 935.2), which relates to defined contribution system; authorizing certain elected officials to participate in defined contribution system.

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 913.4, as last amended by Section 47, Chapter 25, O.S.L. 2019 (74 O.S. Supp. 2020, Section 913.4), is amended to read as follows:

Section 913.4. A. 1. Except as otherwise provided in this subsection, an elected official may elect to participate in the Oklahoma Public Employees Retirement System and if he or she elects to do so shall have the option of participating at any one of the computation factors set forth in paragraph 3 or 4 of this subsection and will receive retirement benefits in accordance with the

1 computation factor chosen. The election on participation in the
 2 System must be in writing, must specify the computation factor
 3 chosen, and must be filed with the System within ninety (90) days
 4 after the elected official takes office. The election to
 5 participate and the election of a computation factor shall be
 6 irrevocable except as provided in Section 2 of this act. Reelection
 7 to the same office will not permit new elections. Failure of an
 8 elected official to file such election form within the ninety-day
 9 period shall be deemed an irrevocable election to participate in the
 10 System at the maximum computation factor.

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

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

Elected official	Computation	Alternate
Contribution Rate	Factor	Formula
4.5%	1.9%	\$12.50

1	6%	2.5%	\$20.00
2	7.5%	3.0%	\$25.00
3	8.5%	3.4%	\$27.50
4	9%	3.6%	\$30.00
5	10%	4.0%	\$40.00

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

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

23 6. The computation factors and corresponding elected official
24 contribution rates provided for in paragraphs 3 and 4 of this

1 subsection shall be based on the entire compensation as an elected
2 official subject to the definition and maximum compensation levels
3 as set forth in paragraph (9) of Section 902 of this title.

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

8 8. A statewide elected official or legislator whose first
9 service as an elected official occurs on or after November 1, 2015,
10 shall become a participant in the defined contribution system
11 created by Sections 935.1 through 935.11 of this title and such
12 elected official shall not accrue any service credit in the defined
13 benefit plan of the Oklahoma Public Employees Retirement System
14 created pursuant to Section 901 et seq. of this title.

15 9. Notwithstanding the provisions of paragraph 8 of this
16 subsection, a statewide elected official or legislator who is first
17 elected or appointed on or after November 1, 2018, and who has
18 participating service in the defined benefit plan prior to November
19 1, 2015, shall be a member of the defined benefit plan.

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

1 eighty (80). The normal retirement date for an elected official
 2 first elected or appointed to an elected office on or after November
 3 1, 2011, shall be the first day of the month coinciding with or
 4 following the official's sixty-fifth birthday or the date upon which
 5 the elected or appointed official attains the age of sixty-two (62)
 6 and who has at least ten (10) years of elected or appointed service.
 7 Any elected official first elected or appointed to an elected office
 8 before November 1, 2011, who has a minimum of ten (10) years'
 9 participating service may retire under the early retirement
 10 provisions of this act, including those electing a vested benefit
 11 and shall receive an adjustment of annual benefits in accordance
 12 with the following percentage schedule:

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

21 Any elected official first elected or appointed to an elected
 22 office on or after November 1, 2011, who has a minimum of ten (10)
 23 years' elected or appointed service may retire under the early
 24 retirement provisions of this act, including those electing a vested

1 benefit and shall receive an adjustment of annual benefits in
 2 accordance with the following percentage schedule:

Age	Percentage of Normal Retirement Benefits
62	100%
61	93.33%
60	86.67%

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

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

22 3. Elected officials who become members of the Oklahoma Public
 23 Employees Retirement System on or after August 22, 2008, will
 24 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. Elected officials may elect a retirement option as
20 provided in Section 918 of this title in lieu of the survivors
21 benefit provided above.

22 F. Any elected official who served in the Armed Forces of the
23 United States, as defined in paragraph (23) of Section 902 of this
24 title, prior to membership in the Oklahoma Public Employees
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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. Anyone 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. Anyone appointed or elected to an
8 elected position on or after November 1, 2011, shall not be eligible
9 to receive benefits as provided in this section until such person
10 has participated as an elected official for eight (8) years.

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

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

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

5 SECTION 2. AMENDATORY Section 2, Chapter 375, O.S.L.
6 2014, as last amended by Section 4, Chapter 94, O.S.L. 2017 (74 O.S.
7 Supp. 2020, Section 935.2), is amended to read as follows:

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

21 B. The provisions of subsection A of this section and the
22 provisions of this act shall not be applicable to employees who are
23 initially employed in the positions described in division (i), (ii),
24 (iii), or (iv) of subparagraph (d) of paragraph (24) of Section 902

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

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

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

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

20 F. Any employee employed on or after November 1, 2015, by the
21 Legislative Service Bureau, State Senate or House of Representatives
22 for the full duration of a regular legislative session shall be
23 eligible for membership only in the defined contribution system
24 regardless of classification as a temporary employee. The temporary
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1 session employee may participate in the defined contribution system
2 during the regular legislative session at the option of the
3 employee. Once the temporary session employee makes a choice to
4 participate, the choice shall be binding for all future legislative
5 sessions during which the temporary session employee is employed.
6 For purposes of this subparagraph, the determination of whether an
7 employee is employed for the full duration of a regular legislative
8 session shall be made by the employer.

9 G. Beginning on or after the effective date of this act, an
10 elected official who elected, prior to the effective date of this
11 act, not to participate in the System pursuant to Section 913.4 of
12 this title may elect to participate in the defined contribution
13 system, using a form provided by the System.

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