

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 216

By: Simpson

AS INTRODUCED

An Act relating to the Oklahoma Public Employees Retirement System; amending 74 O.S. 2011, Section 902, as last amended by Section 20, Chapter 297, O.S.L. 2016 (74 O.S. Supp. 2016, Section 902), which relates to definitions; amending the definition of military service to include certain dates; providing certain exceptions to military service; updating language; and prohibiting certain requirements to military service.

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 902, as last amended by Section 20, Chapter 297, O.S.L. 2016 (74 O.S. Supp. 2016, Section 902), is amended to read as follows:

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

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

(2) "Accumulated contributions" means the sum of all contributions by a member to the System which shall be credited to the member's account;

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

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

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

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

8 (7) "Beneficiary" means any person named by a member to receive
9 any benefits as provided for by Section 901 et seq. of this title.
10 If there is no beneficiary living at time of member employee's
11 death, the member's estate shall be the beneficiary;

12 (8) "Board" means the Oklahoma Public Employees Retirement
13 System Board of Trustees;

14 (9) "Compensation" means all salary and wages, as defined by
15 the Board of Trustees, including amounts deferred under deferred
16 compensation agreements entered into between a member and a
17 participating employer, but exclusive of payment for overtime,
18 payable to a member of the System for personal services performed
19 for a participating employer but shall not include compensation or
20 reimbursement for traveling, or moving expenses, or any compensation
21 in excess of the maximum compensation level⁷; provided:

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

1 For compensation for service on or after January 1,
2 1988, through June 30, 1994, the maximum compensation
3 level shall be Forty Thousand Dollars (\$40,000.00) per
4 annum.

5 For compensation for service on or after July 1, 1994,
6 through June 30, 1995, the maximum compensation level
7 shall be Fifty Thousand Dollars (\$50,000.00) per
8 annum; for compensation for service on or after July
9 1, 1995, through June 30, 1996, the maximum
10 compensation level shall be Sixty Thousand Dollars
11 (\$60,000.00) per annum; for compensation for service
12 on or after July 1, 1996, through June 30, 1997, the
13 maximum compensation level shall be Seventy Thousand
14 Dollars (\$70,000.00) per annum; and for compensation
15 for service on or after July 1, 1997, through June 30,
16 1998, the maximum compensation level shall be Eighty
17 Thousand Dollars (\$80,000.00) per annum. For
18 compensation for services on or after July 1, 1998,
19 there shall be no maximum compensation level for
20 retirement purposes.

21 (b) Compensation for retirement purposes shall include any
22 amount of elective salary reduction under Section 457
23 of the Internal Revenue Code of 1986 and any amount of
24

1 nonelective salary reduction under Section 414(h) of
2 the Internal Revenue Code of 1986.

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

9 (d) Current appointed members of the Oklahoma Tax
10 Commission whose salary is constitutionally limited
11 and is less than the highest salary allowed by law for
12 his or her position shall be allowed, within ninety
13 (90) days from the effective date of this act, to make
14 an election to use the highest salary allowed by law
15 for the position to which the member was appointed for
16 the purposes of making contributions and determination
17 of retirement benefits. Such election shall be
18 irrevocable and be in writing. Reappointment to the
19 same office shall not permit a new election. Members
20 appointed to the Oklahoma Tax Commission after the
21 effective date of this act shall make such election,
22 pursuant to this subparagraph, within ninety (90) days
23 of taking office;

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

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

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

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

19 (a) If a class or several classes of employees of any
20 above-defined employers are covered by Social Security
21 and are not covered by or eligible for and will not
22 become eligible for another retirement plan authorized
23 under the laws of this state, which is in operation on
24 the effective date, such employer shall be deemed an

1 eligible employer, but only with respect to that class
2 or those classes of employees as defined in this
3 section.

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

1 transmitted to the System on the same basis as the
2 employee and employer contributions are transmitted
3 for the direct employees of the state agency. The
4 retirement or eligibility for retirement under the
5 provisions of law providing pensions for service as a
6 volunteer firefighter shall not render any person
7 ineligible for participation in the benefits provided
8 for in Section 901 et seq. of this title. An employee
9 of any public or private trust in which a county, city
10 or town participates and is the primary beneficiary
11 shall be deemed to be an eligible employee for the
12 purpose of this act only.

13 (c) All employees of the George Nigh Rehabilitation
14 Institute who elected to retain membership in the
15 System, pursuant to Section 913.7 of this title, shall
16 continue to be eligible employees for the purposes of
17 this act. The George Nigh Rehabilitation Institute
18 shall be considered a participating employer only for
19 such employees.

20 (d) All employees of CompSource Mutual Insurance Company
21 who retain membership in the Oklahoma Public Employees
22 Retirement System pursuant to Section 913.9 of this
23 title shall continue to be eligible employees for the
24 purposes of the Oklahoma Public Employees Retirement

1 System. CompSource Mutual Insurance Company shall be
2 considered a participating employer only for such
3 employees.

4 (e) All employees of a successor organization, as defined
5 by Section 5-60.12 of Title 2 of the Oklahoma
6 Statutes, who retain membership in the Oklahoma Public
7 Employees Retirement System pursuant to Section 5-
8 60.35 of Title 2 of the Oklahoma Statutes shall
9 continue to be eligible employees for the purposes of
10 the Oklahoma Public Employees Retirement System. A
11 successor organization shall be considered a
12 participating employer only for such employees.

13 (f) A participating employer of the Teachers' Retirement
14 System of Oklahoma, who has one or more employees who
15 have made an election pursuant to enabling legislation
16 to retain membership in the System as a result of
17 change in administration, shall be considered a
18 participating employer of the Oklahoma Public
19 Employees Retirement System only for such employees;

20 (14) "Employee" means any officer or employee of a
21 participating employer, whose employment is not seasonal or
22 temporary and whose employment requires at least one thousand
23 (1,000) hours of work per year and whose salary or wage is equal to
24 the hourly rate of the monthly minimum wage for state employees.

1 For those eligible employers outlined in Section 910 of this title,
2 the rate shall be equal to the hourly rate of the monthly minimum
3 wage for that employer. Each employer, whose minimum wage is less
4 than the state's minimum wage, shall inform the System of the
5 minimum wage for that employer. This notification shall be by
6 resolution of the governing body.

7 (a) Any employee of the county extension agents who is not
8 currently participating in the Teachers' Retirement
9 System of Oklahoma shall be a member of this System.

10 (b) Eligibility shall not include any employee who is a
11 contributing member of the United States Civil Service
12 Retirement System.

13 (c) It shall be mandatory for an officer, appointee or
14 employee of the office of district attorney to become
15 a member of this System if he or she is not currently
16 participating in a county retirement system. Provided
17 further, that if an officer, appointee or employee of
18 the office of district attorney is currently
19 participating in such county retirement system, he or
20 she is ineligible for this System as long as he or she
21 is eligible for such county retirement system. Any
22 eligible officer, appointee or employee of the office
23 of district attorney shall be given credit for prior
24 service as defined in this section. The provisions

1 outlined in Section 917 of this title shall apply to
2 those employees who have previously withdrawn their
3 contributions.

4 (d) Eligibility shall also not include any officer or
5 employee of the Oklahoma Employment Security
6 Commission, except for those officers and employees of
7 the Commission electing to transfer to this System
8 pursuant to the provisions of Section 910.1 of this
9 title or any other class of officers or employees
10 specifically exempted by the laws of this state,
11 unless there be a consolidation as provided by Section
12 912 of this title. Employees of the Oklahoma
13 Employment Security Commission who are ineligible for
14 enrollment in the Employment Security Commission
15 Retirement Plan, that was in effect on January 1,
16 1964, shall become members of this System.

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

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

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

18 (ii) Notwithstanding the provisions of division (i) of
19 this subparagraph, any employee, who is eligible
20 for membership in the System because of the
21 provisions of this subparagraph and who was
22 employed by the State Senate or House of
23 Representatives after January 1, 1989, may file
24 an election, in a manner specified by the Board,

1 to participate as a member of the System prior to
2 September 1, 1989.

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

15 (iv) A member of the System who did not initially
16 elect to participate as a member of the System
17 pursuant to this subparagraph shall be able to
18 acquire service performed as a temporary
19 legislative session employee for periods of
20 service performed prior to the date upon which
21 the person became a member of the System if:
22 a. the member files an election with the System
23 not later than December 31, 2000, to
24 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
24 agreements entered into between a member and a participating

1 employer, up to, but not exceeding the maximum compensation levels
2 as provided in paragraph (9) of this section received during the
3 highest three (3) of the last ten (10) years of participating
4 service immediately preceding retirement or termination of
5 employment and with respect to members whose first participating
6 service occurs on or after July 1, 2013, the compensation received
7 during the highest five (5) of the last ten (10) years of
8 participating service immediately preceding retirement or
9 termination of employment. Provided, no member shall retire with a
10 final average compensation unless the member has made the required
11 contributions on such compensation, as defined by the Board of
12 Trustees;

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

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

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

24

1 (22) "Member" means an eligible employee or elected official
2 who is in the System and is making the required employee or elected
3 official contributions, or any former employee or elected official
4 who shall have made the required contributions to the System and
5 shall have not received a refund or withdrawal;

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

11 (a) during the following periods, including the beginning
12 and ending dates, and only for the periods served,
13 from:

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

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

18 ~~(iii)~~

19 (ii) December 7, 1941, to December 31, 1946, commonly
20 referred to as World War II,

21 ~~(iv)~~

22 (iii) June 27, 1950, to January 31, 1955, commonly
23 referred to as the Korean Conflict or the Korean
24 War,

1 ~~(v)~~

2 (iv) February 28, 1961, to May 7, 1975, commonly
3 referred to as the Vietnam era, except that:

- 4 a. for the period from February 28, 1961, to
5 August 4, 1964, military service shall only
6 include service in the Republic of Vietnam
7 during that period, and
8 b. for purposes of determining eligibility for
9 education and training benefits, such period
10 shall end on December 31, 1976, or

11 ~~(vi)~~

12 (v) August 1, 1990, to December 31, 1991, commonly
13 referred to as the Gulf War, the Persian Gulf
14 War, or Operation Desert Storm, but excluding any
15 person who served on active duty for training
16 only, unless discharged from such active duty for
17 a service-connected disability;

18 (vi) On or after August 1, 1990, excluding any person
19 who shall have served on active duty for training
20 only, unless discharged from active duty for
21 service-connected disability.

- 22 (a) For the purpose of this subparagraph,
23 military service shall not require
24 deployment to a theatre of conflict.

1 (b) during a period of war or combat military
2 operation other than a conflict, war or era
3 listed in subparagraph (a) of this
4 paragraph, beginning on the date of
5 Congressional authorization, Congressional
6 resolution, or Executive Order of the
7 President of the United States, for the use
8 of the Armed Forces of the United States in
9 a war or combat military operation, if such
10 war or combat military operation lasted for
11 a period of ninety (90) days or more, for a
12 person who served, and only for the period
13 served, in the area of responsibility of the
14 war or combat military operation, but
15 excluding a person who served on active duty
16 for training only, unless discharged from
17 such active duty for a service-connected
18 disability, and provided that the burden of
19 proof of military service during this period
20 shall be with the member, who must present
21 appropriate documentation establishing such
22 service.

23 An eligible member under this paragraph shall include only those
24 persons who shall have served during the times or in the areas

1 prescribed in this paragraph, and only if such person provides
2 appropriate documentation in such time and manner as required by the
3 System to establish such military service prescribed in this
4 paragraph, or for service pursuant to subdivision a of division ~~(v)~~
5 (iv) of subparagraph (a) of this paragraph those persons who were
6 awarded service medals, as authorized by the United States
7 Department of Defense as reflected in the veteran's Defense
8 Department Form 214, related to the Vietnam Conflict for service
9 prior to August 5, 1964;

10 (24) "Normal retirement date" means the date on which a member
11 may retire with full retirement benefits as provided in Section 901
12 et seq. of this title, such date being whichever occurs first:

13 (a) the first day of the month coinciding with or
14 following a member's:

15 (1) sixty-second birthday with respect to members
16 whose first participating service occurs prior to
17 November 1, 2011, or

18 (2) sixty-fifth birthday with respect to members
19 whose first participating service occurs on or
20 after November 1, 2011, or with respect to
21 members whose first participating service occurs
22 on or after November 1, 2011, reaches a minimum
23 age of sixty (60) years and who also reaches a
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1 normal retirement date pursuant to subparagraph c
2 of this paragraph,

3 (b) for any person who initially became a member prior to
4 July 1, 1992, and who does not reach a normal
5 retirement date pursuant to division (1) of
6 subparagraph (a) of this paragraph, the first day of
7 the month coinciding with or following the date at
8 which the sum of a member's age and number of years of
9 credited service total eighty (80); such a normal
10 retirement date will also apply to any person who
11 became a member of the sending system as defined in
12 Section 901 et seq. of this title, prior to July 1,
13 1992, regardless of whether there were breaks in
14 service after July 1, 1992,

15 (c) for any person who became a member after June 30,
16 1992, but prior to November 1, 2011, and who does not
17 reach a normal retirement date pursuant to division
18 (1) of subparagraph (a) of this paragraph, the first
19 day of the month coinciding with or following the date
20 at which the sum of a member's age and number of years
21 of credited service total ninety (90),

22 (d) in addition to subparagraphs (a), (b) and (c) of this
23 paragraph, the first day of the month coinciding with
24

1 or following a member's completion of at least twenty
2 (20) years of full-time-equivalent employment as:

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

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

23 (iii) a firefighter with the Oklahoma Military
24 Department either employed for the first time on

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

12 (iv) a public safety officer employed by the Grand
13 River Dam Authority for the first time on or
14 after the effective date of this act,

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

23 (f) for any member who was continuously employed by an
24 entity or institution within The Oklahoma State System

1 of Higher Education and whose initial employment with
2 such entity or institution was prior to July 1, 1992,
3 and who without a break in service of more than thirty
4 (30) days became employed by an employer participating
5 in the Oklahoma Public Employees Retirement System,
6 the first day of the month coinciding with or
7 following the date at which the sum of the member's
8 age and number of years of credited service total
9 eighty (80);

10 (25) "Participating employer" means an eligible employer who
11 has agreed to make contributions to the System on behalf of its
12 employees;

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

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

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

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

1 this title or as otherwise allowed to be paid at the discretion of
2 the Board;

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~~ federal Social Security Act;

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

22 (36) "Limitation year" means the year used in applying the
23 limitations of Section 415 of the Internal Revenue Code of 1986,
24 which year shall be the calendar year; and

1 (37) "Public safety officers of the Grand River Dam Authority"
2 means those persons hired by the Grand River Dam Authority on or
3 after the effective date of this act who are certified by the
4 Council on Law Enforcement Education and Training or an equivalent
5 certifying entity for law enforcement personnel training and who
6 perform law enforcement functions as part of their regularly
7 assigned duties and responsibilities on a full-time basis. With
8 respect to any public safety officer hired by the Grand River Dam
9 Authority on or after the effective date of this act, any earned
10 benefits or credits toward retirement benefits from previous
11 participation within the Oklahoma Public Employees Retirement System
12 or the Oklahoma Law Enforcement Retirement System shall remain
13 within that system.

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