

# An Act

ENROLLED SENATE  
BILL NO. 267

By: Pemberton, Jech, Pederson  
and Stephens of the Senate

and

Nollan, Fugate, Provenzano  
and Phillips of the House

An Act relating to teacher retirement; amending 70 O.S. 2011, Section 17-116.10, as last amended by Section 2, Chapter 270, O.S.L. 2017 (70 O.S. Supp. 2020, Section 17-116.10), which relates to postretirement employment; authorizing certain retired members to return to employment in public schools during certain time period with no earning limitations; providing an effective date; and declaring an emergency.

SUBJECT: Teacher retirement requirements

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 17-116.10, as last amended by Section 2, Chapter 270, O.S.L. 2017 (70 O.S. Supp. 2020, Section 17-116.10), is amended to read as follows:

Section 17-116.10. A. Subject to the requirements of Section 6-101.2 of this title and any other applicable requirements of law, a member may enter into postretirement employment with a public school of Oklahoma and still receive monthly retirement benefits subject to the following limitations:

1. A retired member is not eligible to be employed by the public schools of Oklahoma, in any capacity, for sixty (60) calendar days between the retiree's last day of preretirement public education employment and any postretirement public education

employment. For purposes of this section, the term "last day of preretirement employment" shall mean the last day the employee is required to be physically present on the job to complete the terms of the employment contract or agreement. An employee on paid leave is still considered to be employed for purposes of this section. Employment under any conditions during this time, volunteer services for the purpose of obtaining a paid position at a later date, or payment at a later time for services performed during this time period shall cause the forfeiture of all retirement benefits received during the period;

2. Unless otherwise provided in paragraph 3 of this subsection, earnings from the public schools may not exceed one-half (1/2) of the member's final average salary used in computing retirement benefits, or the Earnings Limitation for employees allowed by the Social Security Administration, whichever is less. For retired members under the age of sixty-two (62) years, the limit on allowed earnings from the public schools of Oklahoma for employment for the performance of duties ordinarily performed by classified or nonclassified personnel shall be the lesser of Fifteen Thousand Dollars (\$15,000.00) or one-half (1/2) of the member's final average salary used in computing retirement benefits unless the earnings limitation allowed by the Social Security Administration would be greater than Fifteen Thousand Dollars (\$15,000.00). For retired members sixty-two (62) years of age or older the limit on allowed earnings from the public schools of Oklahoma for the performance of duties ordinarily performed by classified or nonclassified personnel shall be the lesser of Thirty Thousand Dollars (\$30,000.00) or one-half (1/2) of the member's final average salary used in computing retirement benefits. For purposes of this paragraph, the following shall apply:

- a. earnings shall mean "regular annual compensation" as defined in paragraph (25) of Section 17-101 of this title, and shall include any payment by a public school for services rendered by a retired member who is employed for any purpose whatsoever. Supplemental retirement payments paid by a former public school employer pursuant to subsection 9 of Section 17-105 of this title or other state law shall not be considered as earnings,

- b. the Earnings Limitation for employees allowed by the Social Security Administration to workers between the age of sixty-two (62) years and sixty-five (65) years shall apply to retired members below the age of sixty-two (62) years,
- c. the limit on allowed earnings from the public schools shall be automatically adjusted effective the first day of January of each year to reflect the current Earnings Limitation for employees as determined from time to time by the Social Security Administration,
- d. the earnings limit for the calendar year in which a member retires shall be one-twelfth (1/12) of the annual limit multiplied by the number of months the member is eligible to work and receive payments from the public schools of Oklahoma,
- e. earnings in excess of the maximum limit on allowed earnings from public schools of Oklahoma shall result in a loss of future retirement benefits for the year the postretirement employment was performed of One Dollar (\$1.00) for each One Dollar (\$1.00) earned over the maximum allowed earnings amount,
- f. for those members age seventy (70) years and over, the earnings in excess of the maximum limit allowed earnings from public schools of Oklahoma shall be one-half (1/2) the member's final average salary used in computing retirement benefits. However, any retired member receiving benefits from the Retirement System who reached age seventy (70) years prior to July 1, 1991, shall not be restricted by the earnings limits pursuant to this subparagraph until January 1, 1994. To qualify for the provisions of this subparagraph, the member must be employed less than one-half (1/2) time compared to other full-time employees in similar positions;

3. Notwithstanding paragraph 2 of this subsection, a retired classified or nonclassified member who has been retired for thirty-six (36) or more months and who is employed by a public school to

perform duties ordinarily performed by classified or nonclassified personnel shall be able to receive annualized earnings from the public school with no reduction in retirement benefits regardless of the amount of annualized earnings. For a period of three (3) years beginning July 1, 2017, members who have retired as of July 1, 2017, as active classroom teachers, who have been retired and receiving a benefit for at least one (1) year, and who have not been employed by any public school during that one-year period, shall be eligible to be reemployed as an active classroom teacher in common or career tech school districts, with no limitations on earnings. For a period of three (3) years beginning July 1, 2021, members who have retired as of July 1, 2020, who have been retired and receiving a benefit for at least one (1) year, and who have not been employed by any public school during that one-year period, shall be eligible to be reemployed as an active classroom teacher in common or career tech school districts, with no limitations on earnings. The one-year period starts with the retiree's last day of preretirement public education employment. Members returning under this section shall not be subject to any earning limitations following the end of the three-year ~~period~~ periods described in this paragraph. Members returning under this section shall only be employed pursuant to a temporary contract; and

4. A member shall be considered to be employed by a school district to perform the duties ordinarily performed by classified or nonclassified personnel if the member is hired by the school district in the member's individual capacity to perform the duties or if the member performs the duties through employment with a proprietorship, partnership, corporation, limited liability company or partnership, or any other business structure that has agreed or contracted to provide the services to the school district.

B. A public school district that employs a retired member shall be required to make contributions to the System for the retired member in an amount as required in Section 17-108.1 and in paragraph 3 of subsection B of Section 17-116.2 of this title.

C. For purposes of this section, postretirement employment of less than one thousand (1,000) hours per year with the Governor, the State Senate, the House of Representatives or the Legislative Service Bureau shall not be considered as postretirement employment with a public school of Oklahoma.

D. The Board of Trustees of the Teachers' Retirement System of Oklahoma shall promulgate such rules as are necessary to implement the provisions of this section.

E. A member who has entered into postretirement employment with a participating employer of the Teachers' Retirement System of Oklahoma must fully comply with all the provisions of the rules promulgated by the Board of Trustees pursuant to this section in order to continue receiving his or her monthly retirement benefit.

SECTION 2. This act shall become effective July 1, 2021.

SECTION 3. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 28th day of April, 2021.

\_\_\_\_\_  
Presiding Officer of the Senate

Passed the House of Representatives the 12th day of April, 2021.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_