

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 423

By: Quinn of the Senate

and

McDaniel of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to alternative retirement plans;
12 amending 70 O.S. 2011, Sections 17-202, 17-203, 17-
13 204, 17-206 and 17-208, which relate to the Alternate
14 Retirement Plan for Comprehensive Universities Act;
15 modifying definitions; modifying references to
16 certain election by employees; modifying time period
17 within which election required; modifying procedures
with respect to termination of participation;
modifying provisions related to transfer of
contributions; modifying provisions related to the
treatment of certain service credit in the Teachers'
Retirement System of Oklahoma; and providing an
effective date.

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

21 SECTION 1. AMENDATORY 70 O.S. 2011, Section 17-202, is
22 amended to read as follows:
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1 Section 17-202. The following words and phrases as used in this
2 act shall have the following meanings unless a different meaning is
3 clearly required by the context:

4 1. "Participating institution" means only the entities that
5 comprise a comprehensive university pursuant to Section 17-101 of
6 ~~Title 70 of the Oklahoma Statutes~~ this title and which:

- 7 a. maintain an alternate retirement plan pursuant to the
8 provisions of this act, and
9 b. employ eligible employees;

10 2. "Alternate retirement plan" means any employee retirement
11 plan that is created solely to provide benefits for eligible
12 employees ~~and electing employees~~, as defined in this section, for
13 periods of service on or after July 1, 2004. Such retirement plan
14 shall be a plan meeting the requirements of Section 401(a) of the
15 Internal Revenue Code of 1986, as amended, operated pursuant to the
16 provisions of this act;

17 3. "Board of regents" means the board or body designated by the
18 Oklahoma Constitution or by ~~Title 70 of the Oklahoma Statutes~~ this
19 title as the board of regents or governing board of a comprehensive
20 university that is a participating institution;

21 4. "Eligible employee" means any employee of a participating
22 institution who (a) was initially appointed or hired after June 30,
23 2004, and (b) meets the eligibility requirements of the alternate
24 retirement plan of the participating institution that employs the

1 eligible employee. However, the term "eligible employee" does not
2 include a person whose employment is incidental to his or her
3 educational program or whose employment is not continuous. Such
4 eligible employees shall be eligible to participate in the alternate
5 retirement plan if they make a one-time irrevocable written election
6 pursuant to this act; and

7 5. ~~"Electing employee" means an employee of a participating~~
8 ~~institution hired prior to July 1, 2004, who is a member of the~~
9 ~~Teachers' Retirement System of Oklahoma and who makes a one-time~~
10 ~~irrevocable written election pursuant to this act to cease to make~~
11 ~~employee contributions to the Teachers' Retirement System of~~
12 ~~Oklahoma and to participate in an alternate retirement plan~~
13 ~~established by such employee's participating institution pursuant to~~
14 ~~this act; and~~

15 ~~6.~~ "One-time irrevocable written election" means a one-time
16 election made pursuant to this act by an eligible employee ~~or~~
17 ~~electing employee~~ that shall be in writing and irrevocable and shall
18 cover all future service with a participating institution regardless
19 of a break in service.

20 SECTION 2. AMENDATORY 70 O.S. 2011, Section 17-203, is
21 amended to read as follows:

22 Section 17-203. Alternate retirement plans for eligible
23 employees ~~and electing employees~~ are hereby authorized at
24 participating institutions in lieu of the retirement plan offered by

1 the Teachers' Retirement System of Oklahoma. Alternate retirement
2 plans, shall, for eligible employees ~~and electing employees~~, provide
3 retirement and death benefits to such employees through the purchase
4 of annuity contracts, qualified retirement trusts or custodial
5 accounts, fixed or variable in nature, or a combination thereof, at
6 the option of the participating institution.

7 SECTION 3. AMENDATORY 70 O.S. 2011, Section 17-204, is
8 amended to read as follows:

9 Section 17-204. A. On or before June 30, 2005, the Board of
10 Regents of a participating institution may establish an alternate
11 retirement plan pursuant to the provisions of this act, for the
12 entities under the jurisdiction of such Board of Regents, for
13 eligible employees ~~and electing employees~~ in lieu of membership in
14 the Teachers' Retirement System of Oklahoma. The Board of Regents
15 of the applicable participating institution shall determine the
16 terms and conditions of the alternate retirement plan including, by
17 example, terms for eligibility, contributions, vesting and the
18 amount of benefits, and provide for the administration of such an
19 alternate retirement plan and perform or authorize the performance
20 of such functions as may be necessary for such purpose in accordance
21 with this act.

22 B. The Board of Regents shall select the company or companies
23 that shall administer the qualified retirement trust, custodial
24 accounts or from which annuity contracts are to be purchased under

1 the alternate retirement plan and shall approve the form and content
2 of all agreements governing such trusts, accounts or contracts.

3 C. The Board of Regents of the participating institutions may
4 delegate certain responsibilities for administering the alternate
5 retirement plan with respect to each institution's own employees.

6 SECTION 4. AMENDATORY 70 O.S. 2011, Section 17-206, is
7 amended to read as follows:

8 Section 17-206. A. An eligible employee shall have ~~ninety (90)~~
9 thirty (30) days from such eligible employee's initial date of hire
10 or the date the alternate retirement plan is adopted by the
11 participating institution, whichever is later, to make a one-time
12 irrevocable written election to participate in the alternate
13 retirement plan or the Teachers' Retirement System of Oklahoma. If
14 an eligible employee fails to make an election within the ~~ninety-day~~
15 thirty-day period such eligible employee shall participate in the
16 Teachers' Retirement System of Oklahoma. If an eligible employee
17 makes the election to participate in the alternate retirement plan
18 such eligible employee shall not participate in the Teachers'
19 Retirement System of Oklahoma nor make employee contributions to the
20 Teachers' Retirement System of Oklahoma and the participating
21 institution shall not make employer contributions to the Teachers'
22 Retirement System of Oklahoma except as otherwise required by ~~this~~
23 ~~act~~ Section 17-201 et seq. of this title. If an eligible employee
24 elects to participate in the Teachers' Retirement System of

1 Oklahoma, then the eligible employee shall make employee
2 contributions to the Teachers' Retirement System of Oklahoma and the
3 participating institution shall pay the employer contributions of
4 such eligible employee to the Teachers' Retirement System of
5 Oklahoma for the month that the eligible employee was hired through
6 the month that the election is made and as long as the eligible
7 employee participates in the Teachers' Retirement System of
8 Oklahoma.

9 B. An eligible employee who elects to participate in the
10 alternate retirement plan shall be ineligible for participation in
11 the Teachers' Retirement System of Oklahoma. Ineligibility to
12 participate in the Teachers' Retirement System of Oklahoma shall
13 continue so long as such eligible employee remains employed by a
14 participating institution. If such eligible employee assumes a
15 different position, which is governed by a state retirement system
16 other than the alternate retirement plan authorized in ~~this act~~
17 Section 17-201 et seq. of this title, the eligible employee shall be
18 subject to the retirement system rules applicable to that new
19 position. However, such eligible employee shall not be eligible for
20 service credit in the Teachers' Retirement System of Oklahoma for
21 service performed while participating in an alternate retirement
22 plan.

23 ~~C. An electing employee who desires to cease to participate in~~
24 ~~the Teachers' Retirement System of Oklahoma shall make a one-time~~

1 ~~irrevocable written election to cease making employee contributions~~
2 ~~to the Teachers' Retirement System of Oklahoma and participate in~~
3 ~~the alternate retirement plan. Such election shall be made within~~
4 ~~one (1) year following the adoption of the alternate retirement plan~~
5 ~~or receipt of official written notice that the provisions of this~~
6 ~~act satisfy the applicable requirements of the Internal Revenue Code~~
7 ~~of 1986, as amended from time to time, whichever is later. If the~~
8 ~~electing employee makes the election pursuant to this subsection,~~
9 ~~then the participating institution shall notify the Teachers'~~
10 ~~Retirement System of Oklahoma of such election within thirty (30)~~
11 ~~days of receipt of the election. Upon the election to cease~~
12 ~~membership in the Teachers' Retirement System of Oklahoma, employer~~
13 ~~and employee contributions shall cease as of the first day of the~~
14 ~~month coinciding with or first following the receipt of the election~~
15 ~~from the electing employee by the participating institution.~~

16 ~~D. Subject to receipt of official written notice that the~~
17 ~~provisions of this act satisfy the applicable requirements of the~~
18 ~~Internal Revenue Code of 1986, as amended from time to time, as~~
19 ~~provided in subsection C of this section, if the electing employee~~
20 ~~is not vested with the Teachers' Retirement System of Oklahoma at~~
21 ~~the time the election is made, the Teachers' Retirement System of~~
22 ~~Oklahoma shall transfer all of the electing employee's employee~~
23 ~~contributions (but not employer contributions) at the time of such~~
24 ~~election, and attributable interest, pursuant to Section 17-105 of~~

1 ~~Title 70 of the Oklahoma Statutes, to the alternate retirement plan~~
2 ~~in an amount equal to what the electing employee would have received~~
3 ~~had the electing employee withdrawn his or her contributions at the~~
4 ~~date of such election. A transfer of employee contributions and~~
5 ~~interest pursuant to this subsection shall only be made upon receipt~~
6 ~~of official written notice that such transfer satisfies the~~
7 ~~applicable requirements of the Internal Revenue Code of 1986, as~~
8 ~~amended from time to time. Upon transfer of such employee~~
9 ~~contributions and interest to the alternate retirement plan, the~~
10 ~~electing employee shall have all service credit, rights, and~~
11 ~~benefits in the Teachers' Retirement System of Oklahoma canceled.~~
12 ~~In the event the Internal Revenue Service does not approve the~~
13 ~~transfer of contributions and interest to the alternate retirement~~
14 ~~plan as provided in this subsection, such employee contributions and~~
15 ~~interest shall be refunded to such electing employee upon~~
16 ~~termination, retirement, death or disability pursuant to Section 17-~~
17 ~~101 et seq. of Title 70 of the Oklahoma Statutes and the rules of~~
18 ~~the Teachers' Retirement System of Oklahoma.~~

19 ~~E. In the event an electing employee is vested with the~~
20 ~~Teachers' Retirement System of Oklahoma on the date that the~~
21 ~~election is made, such individual shall have the option to either~~
22 ~~(a) leave all of his or her employee contributions in the Teachers'~~
23 ~~Retirement System of Oklahoma, or (b) transfer all of the electing~~
24 ~~employee's employee contributions (but not employer contributions)~~

1 ~~at the time of such election, and attributable interest, pursuant to~~
2 ~~Section 17-105 of Title 70 of the Oklahoma Statutes, to the~~
3 ~~alternate retirement plan in an amount equal to what the electing~~
4 ~~employee would have received had the electing employee withdrawn his~~
5 ~~or her contributions at the date of such election. A transfer of~~
6 ~~employee contributions and interest pursuant to this subsection~~
7 ~~shall only be made upon receipt of official written notice that such~~
8 ~~transfer satisfies the applicable requirements of the Internal~~
9 ~~Revenue Code of 1986, as amended from time to time. Upon transfer~~
10 ~~of such employee contributions and interest to the alternate~~
11 ~~retirement plan, all of the electing employee's service credit,~~
12 ~~rights, and benefits in the Teachers' Retirement System of Oklahoma~~
13 ~~shall be canceled. However, such electing employee who leaves all~~
14 ~~of his or her employee contributions in the Teachers' Retirement~~
15 ~~System of Oklahoma shall not be eligible to retire from the~~
16 ~~Teachers' Retirement System of Oklahoma while employed by a~~
17 ~~participating institution. In the event the Internal Revenue~~
18 ~~Service does not approve the transfer of contributions and interest~~
19 ~~to the alternate retirement plan as provided in this subsection,~~
20 ~~such employee contributions and interest shall be refunded to such~~
21 ~~electing employee upon termination, retirement, death or disability~~
22 ~~pursuant to Section 17-101 et seq. of Title 70 of the Oklahoma~~
23 ~~Statutes and the rules of the Teachers' Retirement System of~~
24 ~~Oklahoma.~~

1 ~~F. An electing employee shall not be eligible to obtain service~~
2 ~~credit in the Teachers' Retirement System of Oklahoma for service~~
3 ~~performed while participating in an alternate retirement plan as~~
4 ~~provided in this act, on or after July 1, 2004, even if the employee~~
5 ~~later returns to employment in a position governed by the Teachers'~~
6 ~~Retirement System of Oklahoma. The Boards of Regents of the~~
7 ~~participating institutions and the Teachers' Retirement System of~~
8 ~~Oklahoma shall promulgate any rules necessary to implement the~~
9 ~~provisions of this section.~~

10 SECTION 5. AMENDATORY 70 O.S. 2011, Section 17-208, is
11 amended to read as follows:

12 Section 17-208. All eligible employees ~~and electing employees~~
13 participating in the alternate retirement plan shall acknowledge in
14 writing that benefits payable pursuant to such alternate retirement
15 plan are not the obligations of the State of Oklahoma or the
16 Teachers' Retirement System of Oklahoma. The alternate retirement
17 plan shall be solely responsible for payment of retirement, death or
18 other benefits earned under the alternate retirement plan and such
19 benefits shall be paid to the participants or their beneficiaries
20 pursuant to the terms of the alternate retirement plan.

21 SECTION 6. This act shall become effective November 1, 2017.
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23 COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND
24 PENSIONS, dated 04/04/2017 - DO PASS, As Amended.