

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. 428

By: Smalley of the Senate

and

Henke and Nollan of the
House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to teacher retirement; amending 70
12 O.S. 2011, Section 17-116.10, as amended by Section
13 4, Chapter 101, O.S.L. 2013 (70 O.S. Supp. 2016,
14 Section 17-116.10), which relates to post-retirement
15 employment; conforming language; excluding certain
employees from retirement classification; allowing
specified retired teachers to return at full pay;
providing an effective date; and declaring an
emergency.

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

19 SECTION 1. AMENDATORY 70 O.S. 2011, Section 17-116.10,
20 as amended by Section 4, Chapter 101, O.S.L. 2013 (70 O.S. Supp.
21 2016, Section 17-116.10), is amended to read as follows:

22 Section 17-116.10. A. Subject to the requirements of Section
23 6-101.2 of this title and any other applicable requirements of law,
24 a member may enter into post-retirement employment with a public

1 school of Oklahoma and still receive monthly retirement benefits
2 subject to the following limitations:

3 1. A retired member is not eligible to be employed by the
4 public schools of Oklahoma, in any capacity, for sixty (60) calendar
5 days between the retiree's last day of pre-retirement public-
6 education employment and any post-retirement public-education
7 employment. For purposes of this section, the term "last day of
8 pre-retirement employment" shall mean the last day the employee is
9 required to be physically present on the job to complete the terms
10 of the employment contract or agreement. An employee on paid leave
11 is still considered to be employed for purposes of this section.

12 Employment under any conditions during this time, volunteer services
13 for the purpose of obtaining a paid position at a later date, or
14 payment at a later time for services performed during this time
15 period shall cause the forfeiture of all retirement benefits
16 received during the period;

17 2. Unless otherwise provided in paragraph 3 of this subsection,
18 earnings from the public schools may not exceed one-half (1/2) of
19 the member's final average salary used in computing retirement
20 benefits, or the Earnings Limitation for employees allowed by the
21 Social Security Administration, whichever is less. For retired
22 members under the age of sixty-two (62) years, the limit on allowed
23 earnings from the public schools of Oklahoma for employment for the
24 performance of duties ordinarily performed by classified or

1 nonclassified personnel shall be the lesser of Fifteen Thousand
2 Dollars (\$15,000.00) or one-half (1/2) of the member's final average
3 salary used in computing retirement benefits unless the earnings
4 limitation allowed by the Social Security Administration would be
5 greater than Fifteen Thousand Dollars (\$15,000.00). For retired
6 members sixty-two (62) years of age or older the limit on allowed
7 earnings from the public schools of Oklahoma for the performance of
8 duties ordinarily performed by classified or nonclassified personnel
9 shall be the lesser of Thirty Thousand Dollars (\$30,000.00) or one-
10 half (1/2) of the member's final average salary used in computing
11 retirement benefits. For purposes of this paragraph, the following
12 shall apply:

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

22 b. the Earnings Limitation for employees allowed by the
23 Social Security Administration to workers between the
24 age of sixty-two (62) years and sixty-five (65) years

1 shall apply to retired members below the age of sixty-
2 two (62) years,

3 c. the limit on allowed earnings from the public schools
4 shall be automatically adjusted effective the first
5 day of January of each year to reflect the current
6 Earnings Limitation for employees as determined from
7 time to time by the Social Security Administration,

8 d. the earnings limit for the calendar year in which a
9 member retires shall be one-twelfth (1/12) of the
10 annual limit multiplied by the number of months the
11 member is eligible to work and receive payments from
12 the public schools of Oklahoma,

13 e. earnings in excess of the maximum limit on allowed
14 earnings from public schools of Oklahoma shall result
15 in a loss of future retirement benefits for the year
16 the post-retirement employment was performed of One
17 Dollar (\$1.00) for each One Dollar (\$1.00) earned over
18 the maximum allowed earnings amount,

19 f. for those members age seventy (70) years and over, the
20 earnings in excess of the maximum limit allowed
21 earnings from public schools of Oklahoma shall be one-
22 half (1/2) the member's final average salary used in
23 computing retirement benefits. However, any retired
24 member receiving benefits from the Retirement System

1 who reached age seventy (70) years prior to July 1,
2 1991, shall not be restricted by the earnings limits
3 pursuant to this subparagraph until January 1, 1994.
4 To qualify for the provisions of this subparagraph,
5 the member must be employed less than one-half (1/2)
6 time compared to other full-time employees in similar
7 positions;

8 3. Notwithstanding paragraph 2 of this subsection, a retired
9 classified or nonclassified member who has been retired for thirty-
10 six (36) or more months and who is employed by a public school to
11 perform duties ordinarily performed by classified or nonclassified
12 personnel shall be able to receive annualized earnings from the
13 public school with no reduction in retirement benefits regardless of
14 the amount of annualized earnings. For a period of three (3) years
15 beginning July 1, 2017, members who retired as active classroom
16 teachers, who have been retired and receiving a benefit for at least
17 one (1) year, and who have not been employed by any public school
18 during that one-year period, shall be eligible to be reemployed as
19 an active classroom teacher in common or career tech school
20 districts, with no limitations on earnings. The one-year period
21 starts with the retiree's last day of preretirement public education
22 employment. Members returning under this section shall not be
23 subject to any earning limitations following the end of the three-
24 year period described in this paragraph; and

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

9 B. A public school district that employs a retired member shall
10 be required to make contributions to the System for the retired
11 member in an amount as required in Section 17-108.1 and in paragraph
12 3 of subsection B of Section 17-116.2 of this title.

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

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

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

3 SECTION 2. This act shall become effective July 1, 2017.

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

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9 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 04/11/2017
10 - DO PASS, As Amended and Coauthored.

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