

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 428 By: Smalley of the Senate
3 and
4 Henke of the House
5
6

7 An Act relating to teacher retirement; amending 70
8 O.S. 2011, Section 17-116.10, as amended by Section
9 4, Chapter 101, O.S.L. 2013 (70 O.S. Supp. 2016,
10 Section 17-116.10), which relates to post-retirement
11 employment; conforming language; excluding certain
employees from retirement classification; allowing
certain retired teachers to return at full pay;
providing an effective date; and declaring an
emergency.

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14 AUTHORS: Add the following House Coauthors: Nollan and Hoskin

15 AMENDMENT NO. 1. Replace the title, enacting clause and entire bill
16 and insert

17 "An Act relating to teacher retirement; amending 70
18 O.S. 2011, Sections 17-105, as last amended by
19 Section 1, Chapter 129, O.S.L. 2016 and 17-116.10,
20 as amended by Section 4, Chapter 101, O.S.L. 2013
21 (70 O.S. Supp. 2016, Sections 17-105 and 17-116.10),
22 which relate to the Teachers' Retirement System;
23 modifying incapacitation standard; clarifying filing
requirements; conforming language; excluding certain
employees from retirement classification; allowing
specified retired teachers to return to employment
at full pay pursuant to a temporary contract;
providing an effective date; and declaring an
emergency.

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

2 SECTION 1. AMENDATORY 70 O.S. 2011, Section 17-105, as
3 last amended by Section 1, Chapter 129, O.S.L. 2016 (70 O.S. Supp.
4 2016, Section 17-105), is amended to read as follows:

5 Section 17-105. (1) (a) Any member who has attained age
6 fifty-five (55) or who has completed thirty (30) years of creditable
7 service, as defined in Section 17-101 of this title, or for any
8 person who initially became a member prior to July 1, 1992,
9 regardless of whether there were breaks in service after July 1,
10 1992, whose age and number of years of creditable service total
11 eighty (80) may be retired upon proper application for retirement on
12 forms established by the System and executing a retirement contract.
13 Such a retirement date will also apply to any person who became a
14 member of the sending system as defined in ~~this act~~ Section 17-101
15 et seq. of this title, prior to July 1, 1992, regardless of whether
16 there were breaks in service after July 1, 1992. Any person who
17 became a member after June 30, 1992, but prior to November 1, 2011,
18 whose age and number of years of creditable service total ninety
19 (90) may be retired upon proper application for retirement and
20 executing a retirement contract. Any person who becomes a member on
21 or after November 1, 2011, who attains the age of sixty-five (65)
22 years or who reaches a normal retirement date pursuant to
23 subparagraph (d) of paragraph (24) of Section 17-101 of this title
24 having attained a minimum age of sixty (60) years may be retired

1 upon proper application for retirement and executing a retirement
2 contract. The application shall be filed on the form provided by
3 the Board of Trustees for this purpose, not less than sixty (60)
4 days before the date of retirement, provided that the Executive
5 Director may waive the sixty-day deadline for good cause shown as
6 defined by the Board.

7 1. The employer shall provide the System with the
8 following information for a retiring member, no later
9 than the fifteenth day of the month of retirement:
10 last day physically on the job; last day on payroll;
11 any regular compensation not already reported to the
12 System; and final unused sick leave balance.

13 2. Failure to submit this information by the deadline, or
14 errors in submitted information that result in a
15 disqualification of retirement eligibility shall be
16 the responsibility of the employer. In cases where
17 the error results in disqualification of retirement
18 eligibility, it is the employer's responsibility to
19 reemploy the member, or retain the member on the
20 payroll, for the time period required to reach
21 eligibility, not exceeding two (2) months.

22 (b) An individual who becomes a member of the Teachers'
23 Retirement System after July 1, 1967, shall be employed by the
24 public schools, state colleges or universities of Oklahoma for a

1 minimum of five (5) years and be a contributing member of the
2 Teachers' Retirement System of Oklahoma for a minimum of five (5)
3 years to qualify for monthly retirement benefits from the Teachers'
4 Retirement System of Oklahoma.

5 (c) Any member with five (5) or more years of Oklahoma teaching
6 service and whose accumulated contributions during such period have
7 not been withdrawn shall be given an indefinite extension of
8 membership beginning with the sixth year following his or her last
9 contributing membership and shall become eligible to apply for
10 retirement and be retired upon attaining age fifty-five (55).

11 (2) An unclassified optional member who has retired or who
12 retires at sixty-two (62) years of age or older or whose retirement
13 is because of disability shall have his or her minimum retirement
14 benefits calculated on an average salary of Five Thousand Three
15 Hundred Fifty Dollars (\$5,350.00) or, if a larger monthly allowance
16 would result, an amount arrived at pursuant to application of the
17 formula prescribed herein.

18 (3) No member shall receive a lesser retirement benefit than he
19 or she would have received under the law in effect at the time he or
20 she retired. Any individual under the Teachers' Retirement System,
21 who through error in stating the title of the position which he or
22 she held, may, at the discretion of the Board of Trustees, be
23 changed from the nonclassified optional group to the classified
24 group for the purpose of calculating retirement benefits.

1 Any individual regardless of residence, who has a minimum of ten
2 (10) years of teaching in Oklahoma schools prior to July 1, 1943, or
3 who taught in Oklahoma schools prior to 1934 and thereafter taught a
4 minimum of ten (10) years and who does not qualify under the present
5 retirement System, or who has a minimum of thirty (30) years of
6 teaching in Oklahoma schools and has reached seventy (70) years of
7 age prior to July 1, 1984, and is not otherwise eligible to receive
8 any benefits from the retirement system shall receive a minimum of
9 One Hundred Fifty Dollars (\$150.00) per month in retirement benefits
10 from the Teachers' Retirement System of Oklahoma plus any general
11 increase in benefits for annuitants as may be provided hereafter by
12 the Legislature. Each individual must apply to the Teachers'
13 Retirement System for such benefit and provide evidence to the
14 Teachers' Retirement System that the service was actually rendered.
15 The surviving spouse of any person who made application for the
16 benefit provided for by this paragraph during his or her lifetime
17 but did not receive said benefit may submit an application to the
18 System for payment of said benefit for those months during the
19 lifetime of the deceased person that he or she was eligible for but
20 did not receive the benefit. Upon approval of the application by
21 the Board of Trustees, the benefit shall be paid to the surviving
22 spouse in one lump sum.

1 (4) The value of each year of prior service is the total
2 monthly retirement benefit divided by the number of years of
3 creditable service.

4 (5) Upon application of a member who is actively engaged in
5 teaching in Oklahoma or his or her employer, any member who has been
6 a contributing member for ten (10) years may be retired by the Board
7 of Trustees subsequent to the execution and filing thereof, on a
8 disability retirement allowance, provided that it is found by the
9 Board of Trustees after medical examination of such member by a duly
10 qualified physician that such member is mentally or physically
11 incapacitated for further performance of duty, that such incapacity
12 is likely to be permanent, and that such member should be retired.
13 The Board of Trustees shall give due consideration to the
14 conclusions and recommendations in the certified written report of
15 the Medical Board of the Teachers' Retirement System regarding the
16 disability application of such member. If a member is determined to
17 be eligible for disability benefits pursuant to the Social Security
18 System, then such determination shall entitle the member to the
19 authorized disability retirement allowance provided by law. For
20 members who are not eligible for disability benefits pursuant to the
21 Social Security System, the Board of Trustees shall apply the same
22 standard for which provision is made in the first two sentences of
23 this subsection for determining the eligibility of a person for such
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1 disability benefits in making a determination of eligibility for
2 disability benefits as authorized by this subsection.

3 (6) (a) A member who at the time of retirement has been found
4 to be permanently physically or mentally incapacitated to ~~teach~~
5 ~~school~~ perform the necessary duties to continue in his or her
6 current position shall receive a minimum monthly retirement payment
7 for life or until such time as the member may be found to be
8 recovered to the point where he or she may return to teaching. Any
9 member retired before July 1, 1992, shall be eligible to receive the
10 monthly retirement allowance herein provided, but such payment shall
11 not begin until the first payment due him or her after July 1, 1992,
12 and shall not be retroactive. The Board of Trustees is empowered to
13 make such rules and regulations as it considers proper to preserve
14 equity in retirements under this provision, which shall include a
15 provision to protect the rights of the member's spouse.

16 (b) A member who has qualified for retirement benefits under
17 disability retirement shall have the total monthly payment deducted
18 from his or her accumulated contributions plus interest earned and
19 any money remaining in the member's account after the above
20 deductions at the death of the member shall be paid in a lump sum to
21 the beneficiary or to the estate of the member. Provided, if the
22 deceased disabled member had thirty (30) years or more of creditable
23 service and the death occurred after June 30, 1981, and death
24 occurred prior to the disabled member receiving twelve monthly

1 retirement payments, a surviving spouse may elect to receive the
2 retirement benefit to which the deceased member would have been
3 entitled at the time of death under the Option 2 Plan of Retirement
4 provided for in subsection (8) of this section in lieu of the death
5 benefit provided for in this subsection and in subsection (12) of
6 this section.

7 (c) Once each year the Board of Trustees may require any
8 disabled annuitant who has not yet attained the age of sixty (60)
9 years to undergo a medical examination, such examination to be made
10 at the place of residence for ~~said~~ the disabled annuitant or other
11 place mutually agreed upon by a physician or physicians designated
12 by the Board of Trustees. Should any disabled annuitant who has not
13 yet attained the age of sixty (60) years refuse to submit to at
14 least one medical examination in any such year by a physician or
15 physicians designated by the Board of Trustees his or her allowance
16 may be discontinued until he or she submits to such examination.

17 (d) Should the Medical Board report and certify to the Board of
18 Trustees that such disabled annuitant is engaged in or is able to
19 engage in a gainful occupation paying more than the difference
20 between his or her retirement allowance and the average final
21 compensation, and should the Board of Trustees concur in such report
22 then the amount of his or her pension shall be reduced to an amount
23 which, together with his or her retirement allowance and that amount
24 earnable by him or her, shall equal the amount of his or her average

1 final compensation. Should his or her earning capacity be later
2 increased, the amount of his or her pension may be further modified,
3 provided the new pension shall not exceed that amount of the pension
4 originally granted nor an amount, which when added to the amount
5 earnable by the member, together with his or her annuity, equals the
6 amount of his or her average final compensation.

7 (e) Should a disabled annuitant be restored to active service,
8 his or her disability retirement allowance shall cease and he or she
9 shall again become a member of the Teachers' Retirement System and
10 shall make regular contributions as required under this article.
11 The unused portion of his or her accumulated contributions shall be
12 reestablished to his or her credit in the Teachers' Savings Fund.
13 Any such prior service certificates on the basis of which his or her
14 service was computed at the time of his or her retirement shall be
15 restored to full force and effect.

16 (7) Should a member before retirement under Section 1-101 et
17 seq. of this title make application for withdrawal duly filed with
18 the ~~Board of Trustees and approved by it~~ System, not earlier than
19 four (4) months after the date of termination of such service as a
20 teacher, the contribution standing to the credit of his or her
21 individual account in the Teachers' Savings Fund shall be paid to
22 him or her or, in the event of his or her death before retirement,
23 shall be paid to such person or persons as he or she shall have
24 nominated by written designation, duly executed and filed with the

1 ~~Board of Trustees System~~; provided, however, if there be no
2 designated beneficiary surviving upon such death, such contributions
3 shall be paid to his or her administrators, executors, or assigns,
4 together with interest as hereinafter provided. In lieu of a lump-
5 sum settlement at the death of the member, the amount of money the
6 member has on deposit in the Teachers' Savings Fund and the money
7 the member has on deposit in the Teachers' Deposit Fund may be paid
8 in monthly payments to a designated beneficiary, who must be the
9 spouse, under the Maximum or Option 1 Plan of Retirement providing
10 the monthly payment shall be not less than Twenty-five Dollars
11 (\$25.00) per month. The monthly payment shall be the actuarial
12 equivalent of the amount becoming due at the member's death based on
13 the sex of the spouse and the age the spouse has attained at the
14 last birthday prior to the member's death. Provided further, if
15 there be no designated beneficiary surviving upon such death, and
16 the contributions standing to the credit of such member do not
17 exceed Two Hundred Dollars (\$200.00), no part of such contributions
18 shall be subject to the payment of any expense of the last illness
19 or funeral of the deceased member or any expense of administration
20 of the estate of such deceased and the ~~Board of Trustees System~~,
21 upon satisfactory proof of the death of such member and of the name
22 or names of the person or persons who would be entitled to receive
23 such contributions under the laws of descent and distribution of the
24 state, may authorize the payment of accumulated contributions to

1 such person or persons. A member terminating his or her membership
2 by withdrawal after June 30, 2003, shall have the interest computed
3 at a rate of interest determined by the ~~Board of Trustees~~ System and
4 paid to him or her subject to the following schedule:

5 (a) If termination occurs within sixteen (16) years from the
6 date membership began, fifty percent (50%) of such interest
7 accumulations shall be paid.

8 (b) With at least sixteen (16) but less than twenty-one (21)
9 years of membership, sixty percent (60%) of such interest
10 accumulations shall be paid.

11 (c) With at least twenty-one (21) but less than twenty-six (26)
12 years of membership, seventy-five percent (75%) of such interest
13 accumulations shall be paid.

14 (d) With at least twenty-six (26) years of membership, ninety
15 percent (90%) of such interest accumulations shall be paid.

16 In case of death of an active member, the interest shall be
17 calculated and restored to the member's account and paid to his or
18 her beneficiary.

19 (8) (a) In lieu of his or her retirement allowance payable
20 throughout life for such an amount as determined under this section,
21 the member may select a retirement allowance for a reduced amount
22 payable under any of the following options the present value of
23 which is the actuarial equivalent thereof.

24

1 (b) A member may select the option under which he or she
2 desires to retire at the end of the school year in which he or she
3 attains age seventy (70) and ~~said~~ the option shall be binding and
4 cannot be changed. Provided further that if a member retires before
5 age seventy (70), no election of an option shall be effective in
6 case an annuitant dies before the first payment due under such
7 option has been received.

8 (c) The first payment of any benefit selected shall be made on
9 the first day of the month following approval of the retirement by
10 the System. If the named designated beneficiary under Option 2 or 3
11 dies at any time after the member's retirement date, but before the
12 death of the member, the member shall return to the retirement
13 benefit, including any ~~post-retirement~~ postretirement benefit
14 increases the member would have received had the member not selected
15 Option 2 or 3 of this subsection. The benefit shall be determined
16 at the date of death of the designated beneficiary or July 1, 1994,
17 whichever is later. This increase shall become effective the first
18 day of the month following the date of death of the designated
19 beneficiary or July 1, 1994, whichever is later, and shall be
20 payable for the member's remaining lifetime. The member shall
21 notify the Teachers' Retirement System of Oklahoma of the death of
22 the designated beneficiary in writing. In the absence of ~~said~~ the
23 written notice being filed by the member notifying the Teachers'
24 Retirement System of Oklahoma of the death of the designated

1 beneficiary within six (6) months of the date of death, nothing in
2 this subsection shall require the Teachers' Retirement System of
3 Oklahoma to pay more than six (6) months of retrospective benefits
4 increase.

5 Option 1. If he or she dies before he or she has received in
6 annuity payments the present value of his or her annuity as it was
7 at the time of his or her retirement, the balance shall be paid to
8 his or her legal representatives or to such person as he or she
9 shall nominate by written designation duly acknowledged and filed
10 with the ~~Board of Trustees~~ System at the time of his or her
11 retirement; or

12 Option 2. A member takes a reduced retirement allowance for
13 life. Upon the death of the member the payments shall continue to
14 the member's designated beneficiary for the life of the beneficiary.
15 The written designation of the beneficiary must be duly acknowledged
16 and filed with the ~~Board of Trustees~~ System at the time of the
17 member's retirement and, except as provided in paragraph (e) of this
18 subsection, cannot be changed after the effective date of the
19 member's retirement; or

20 Option 3. A member receives a reduced retirement allowance for
21 life. Upon the death of the member one-half (1/2) of the retirement
22 allowance paid the member shall be continued throughout the life of
23 the designated beneficiary. A written designation of a beneficiary
24 must be duly acknowledged and filed with the ~~Board of Trustees~~

1 System at the time of the member's retirement and, except as
2 provided in paragraph (e) of this subsection, cannot be changed
3 after the effective date of the member's retirement; or

4 Option 4. Some other benefit or benefits shall be paid either
5 to the member or to such person or persons as he or she shall
6 nominate, provided such other benefit or benefits, together with the
7 reduced retirement allowance, shall be certified by the actuary to
8 be of equivalent actuarial value to his or her retirement allowance
9 and shall be approved by the ~~Board of Trustees~~ System.

10 (d) Provided that Option 2 and Option 3 shall not be available
11 if the member's expected benefit is less than fifty percent (50%) of
12 the lump-sum actuarial equivalent and the designated beneficiary is
13 not the spouse of the member.

14 (e) A member who chose the maximum retirement benefit plan at
15 the time of retirement may make a one-time election to choose either
16 Option 2 or 3 and name the member's spouse as designated beneficiary
17 if the member marries after making the initial election. Such an
18 election shall be made by July 1, 2011, or within one (1) year of
19 the date of marriage, whichever is later. The member shall provide
20 proof of a member's good health before the Board of Trustees will
21 permit a change to either Option 2 or 3 and the naming of a
22 designated beneficiary. A medical examination conducted by a
23 licensed physician is required for purposes of determining good
24 health. Such examination must be approved by the Medical Board.

1 The member shall be required to provide proof of age for the new
2 beneficiary. The Board of Trustees shall adjust the monthly benefit
3 to the actuarially equivalent amount based on the new designated
4 beneficiary's age. The Board of Trustees shall promulgate rules to
5 implement the provisions of this subsection.

6 (f) A member who retires after the effective date of this act
7 and has selected a retirement allowance for a reduced amount payable
8 under one of the options provided for in this subsection may make a
9 one-time irrevocable election to select a different option within
10 sixty (60) days of the member's retirement date. The beneficiary
11 designated by the member at the time of retirement shall not be
12 changed if the member makes the election provided for in this
13 paragraph.

14 (g) Any individual who is eligible to be a beneficiary of a
15 member under this subsection, and who is also a beneficiary of a
16 trust created under the Oklahoma Discretionary and Special Needs
17 Trust Act, Section 175.81 et seq. of Title 60 of the Oklahoma
18 Statutes, or a comparable Trust Act created under the laws of
19 another state, hereinafter collectively referred to as "Trust Acts",
20 may be a beneficiary under this subsection by having the trustee of
21 the trust established for the benefit of that individual named as
22 the legal beneficiary under this subsection. The age of that
23 beneficiary shall be used for calculating any benefit payable to the
24 trust under this subsection. The beneficiary of such a trust shall

1 be treated as the beneficiary under this subsection except that
2 payments of any benefits due under this subsection shall be payable
3 to the lawfully appointed trustee of the trust. The obligation of
4 the System to pay the beneficiary under this subsection shall be
5 satisfied by payment to the trustee whom the System, in good faith,
6 believes to be the lawfully appointed trustee. Any conflict between
7 the statutes creating and governing the Teachers' Retirement System
8 in Section 17-101 et seq. of this title and the provisions of any
9 Trust Act referred to above shall be resolved in favor of the
10 statutes governing the System. If an eligible beneficiary is named
11 at the time of retirement, and becomes a beneficiary of a trust
12 under one of the Trust Acts described herein after that time, the
13 System will acknowledge the trust as the beneficiary upon the
14 submission of adequate documentation of the existence of the trust.
15 All other provisions of this subsection shall apply to these
16 subsequently created trusts.

17 (h) The Board of Trustees of the System may recognize other
18 trusts set up for the benefit of individuals otherwise eligible to
19 be named as a beneficiary under this subsection by administrative
20 rule if it can be done without undue additional administrative
21 expense of the System.

22 (9) The governing board of any "public school", as that term is
23 defined in Section 17-101 of this title, is hereby authorized and
24 empowered to pay additional retirement allowances or compensation to

1 any person who was in the employ of such public school for not less
2 than seven (7) school years preceding the date of his or her
3 retirement. Payments so made shall be a proper charge against the
4 current appropriation or appropriations of any such public school
5 for salaries for the fiscal year in which such payments are made.
6 Such payments shall be made in regular monthly installments in such
7 amounts as the governing board of any such public school, in its
8 judgment, shall determine to be reasonable and appropriate in view
9 of the length and type of service rendered by any such person to
10 such public school by which such person was employed at the time of
11 retirement. All such additional payments shall be uniform, based
12 upon the length of service and the type of services performed, to
13 persons formerly employed by such public school who have retired or
14 been retired in accordance with the provisions of Section 17-101 et
15 seq. of this title.

16 The governing board of any such public school may adopt rules
17 and regulations of general application outlining the terms and
18 conditions under which such additional retirement benefits shall be
19 paid, and all decisions of such board shall be final.

20 (10) In addition to the teachers' retirement herein provided,
21 teachers may voluntarily avail themselves of the Federal Social
22 Security Program upon a district basis.

23 (11) Upon the death of an in-service member, the System shall
24 pay to the designated beneficiary of the member or, if there is no

1 designated beneficiary or if the designated beneficiary predeceases
2 the member, to the estate of the member, the sum of Eighteen
3 Thousand Dollars (\$18,000.00) as a death benefit. Provided, if the
4 deceased member had ten (10) years or more of creditable service and
5 the death occurred after February 1, 1985, the member's designated
6 beneficiary may elect to receive the retirement benefit to which the
7 deceased member would have been entitled at the time of death under
8 the Option 2 plan of retirement in lieu of the death benefit
9 provided for in this subsection. Provided further, the option
10 provided in this subsection is only available when the member has
11 designated one individual as the designated beneficiary. The
12 beneficiary or beneficiaries of death benefits in the amount not to
13 exceed Eighteen Thousand Dollars (\$18,000.00), but exclusive of any
14 retirement benefit received by an electing beneficiary based upon
15 creditable service performed by the deceased member, which are
16 provided pursuant to this subsection may elect to disclaim such
17 death benefits in which case such benefits will be transferred to a
18 person licensed as a funeral director or to a lawfully recognized
19 business entity licensed as required by law to provide funeral
20 services for the deceased member. The qualified disclaimer must be
21 in writing and will be an irrevocable and an unqualified refusal to
22 accept all or a portion of the death benefit. It must be received
23 by the transferor no more than nine (9) months after the later of
24 the day the transfer creating the interest in the disclaiming person

1 is made or the day the disclaiming person attains age twenty-one
2 (21). The interest in the death benefits must pass without
3 direction by the disclaiming person to another person.

4 (12) Upon the death of an annuitant who has contributed to the
5 System, the retirement system shall pay to the designated
6 beneficiary of the annuitant or, if there is no designated
7 beneficiary or if the designated beneficiary predeceases the
8 annuitant, to the estate of the annuitant, the sum of Five Thousand
9 Dollars (\$5,000.00) as a death benefit. The beneficiary or
10 beneficiaries of benefits provided pursuant to this subsection may
11 elect to disclaim such death benefits in which case such benefits
12 will be transferred to a person licensed as a funeral director or to
13 a lawfully recognized business entity licensed as required by law to
14 provide funeral services for the deceased member. The qualified
15 disclaimer must be in writing and will be an irrevocable and an
16 unqualified refusal to accept all or a portion of the death benefit.
17 It must be received by the transferor no more than nine (9) months
18 after the later of the day the transfer creating the interest in the
19 disclaiming person is made or the day the disclaiming person attains
20 age twenty-one (21). The interest in the death benefits must pass
21 without direction by the disclaiming person to another person. The
22 benefit payable pursuant to this subsection shall be deemed, for
23 purposes of federal income taxation, as life insurance proceeds and
24 not as a death benefit if the Internal Revenue Service approves this

1 provision pursuant to a private letter ruling request which shall be
2 submitted by the board of trustees of the System for that purpose.

3 (13) Upon the death of a member who dies leaving no living
4 beneficiary or having designated his or her estate as beneficiary,
5 the System may pay any applicable death benefit, unpaid
6 contributions, or unpaid benefit which may be subject to probate, in
7 an amount of Twenty-five Thousand Dollars (\$25,000.00) or less,
8 without the intervention of the probate court or probate procedure
9 pursuant to Section 1 et seq. of Title 58 of the Oklahoma Statutes.

10 (a) Before any applicable probate procedure may be waived, the
11 System must be in receipt of the member's proof of death and the
12 following documents from those persons claiming to be the legal
13 heirs of the deceased member:

14 1. The member's valid last will and testament, trust
15 documents or affidavit that a will does not exist;

16 2. An affidavit or affidavits of heirship which must
17 state:

18 a. the names and signatures of all claiming heirs to
19 the deceased member's estate including the
20 claiming heirs' names, relationship to the
21 deceased, current addresses, tax I.D. numbers if
22 known and current telephone numbers,

23 b. a statement or statements by the claiming heirs
24 that no application or petition for the

- 1 appointment of a personal representative is
2 pending or has been granted in any jurisdiction,
- 3 c. a description of the personal property claimed,
4 (i.e., death benefit or unpaid contributions or
5 both) together with a statement that such
6 personal property is subject to probate,
- 7 d. a statement by each individual claiming heir
8 identifying the amount of personal property that
9 the heir is claiming from the System, and that
10 the heir has been notified of, is aware of and
11 consents to the identified claims of all the
12 other claiming heirs of the deceased member
13 pending with the System;
- 14 3. A written agreement or agreements signed by all
15 claiming heirs of the deceased member which provides
16 that the claiming heirs release, discharge and hold
17 harmless the System from any and all liability,
18 obligations and costs which it may incur as a result
19 of making a payment to any of the deceased member's
20 heirs;
- 21 4. A corroborating affidavit from an individual other
22 than a claiming heir, who was familiar with the
23 affairs of the deceased member;
- 24

1 5. Proof that all debts of the deceased member, including
2 payment of last sickness, hospital, medical, death,
3 funeral and burial expenses have been paid or provided
4 for.

5 (b) The Executive Director of the System shall retain complete
6 discretion in determining which requests for probate waiver may be
7 granted or denied, for any reason. Should the System have any
8 question as to the validity of any document presented by the
9 claiming heirs, or as to any statement or assertion contained
10 therein, the probate requirement provided for in Section 1 et seq.
11 of Title 58 of the Oklahoma Statutes, shall not be waived.

12 (c) After paying any death benefits or unpaid contributions to
13 any claiming heirs as provided pursuant to this subsection, the
14 System is discharged and released from any and all liability,
15 obligation and costs to the same extent as if the System had dealt
16 with a personal representative of the deceased member. The System
17 is not required to inquire into the truth of any matter specified in
18 this subsection or into the payment of any estate tax liability.

19 (14) Upon the death of a retired member, the benefit payment
20 for the month in which the retired member died, if not previously
21 paid, shall be made to the beneficiary of the member or to the
22 member's estate if there is no beneficiary. Such benefit payment
23 shall be made in an amount equal to a full monthly benefit payment
24 regardless of the day of the month in which the retired member died.

1 SECTION 2. AMENDATORY 70 O.S. 2011, Section 17-116.10,
2 as amended by Section 4, Chapter 101, O.S.L. 2013 (70 O.S. Supp.
3 2016, Section 17-116.10), is amended to read as follows:

4 Section 17-116.10 A. Subject to the requirements of Section 6-
5 101.2 of this title and any other applicable requirements of law, a
6 member may enter into ~~post-retirement~~ postretirement employment with
7 a public school of Oklahoma and still receive monthly retirement
8 benefits subject to the following limitations:

9 1. A retired member is not eligible to be employed by the
10 public schools of Oklahoma, in any capacity, for sixty (60) calendar
11 days between the retiree's last day of ~~pre-retirement~~ preretirement
12 ~~public-education~~ employment and any ~~post-retirement~~ postretirement
13 ~~public-education~~ employment. For purposes of this section, the term
14 "last day of ~~pre-retirement~~ preretirement employment" shall mean the
15 last day the employee is required to be physically present on the
16 job to complete the terms of the employment contract or agreement.
17 An employee on paid leave is still considered to be employed for
18 purposes of this section. Employment under any conditions during
19 this time, volunteer services for the purpose of obtaining a paid
20 position at a later date, or payment at a later time for services
21 performed during this time period shall cause the forfeiture of all
22 retirement benefits received during the period;

23 2. Unless otherwise provided in paragraph 3 of this subsection,
24 earnings from the public schools may not exceed one-half (1/2) of

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

19 a. earnings shall mean "regular annual compensation" as
20 defined in paragraph (25) of Section 17-101 of this
21 title, and shall include any payment by a public
22 school for services rendered by a retired member who
23 is employed for any purpose whatsoever. Supplemental
24 retirement payments paid by a former public school

1 employer pursuant to subsection 9 of Section 17-105 of
2 this title or other state law shall not be considered
3 as earnings,

4 b. the Earnings Limitation for employees allowed by the
5 Social Security Administration to workers between the
6 age of sixty-two (62) years and sixty-five (65) years
7 shall apply to retired members below the age of sixty-
8 two (62) years,

9 c. the limit on allowed earnings from the public schools
10 shall be automatically adjusted effective the first
11 day of January of each year to reflect the current
12 Earnings Limitation for employees as determined from
13 time to time by the Social Security Administration,

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

19 e. earnings in excess of the maximum limit on allowed
20 earnings from public schools of Oklahoma shall result
21 in a loss of future retirement benefits for the year
22 the ~~post-retirement~~ postretirement employment was
23 performed of One Dollar (\$1.00) for each One Dollar
24

1 (\$1.00) earned over the maximum allowed earnings
2 amount,

3 f. for those members age seventy (70) years and over, the
4 earnings in excess of the maximum limit allowed
5 earnings from public schools of Oklahoma shall be one-
6 half (1/2) the member's final average salary used in
7 computing retirement benefits. However, any retired
8 member receiving benefits from the Retirement System
9 who reached age seventy (70) years prior to July 1,
10 1991, shall not be restricted by the earnings limits
11 pursuant to this subparagraph until January 1, 1994.
12 To qualify for the provisions of this subparagraph,
13 the member must be employed less than one-half (1/2)
14 time compared to other full-time employees in similar
15 positions;

16 3. Notwithstanding paragraph 2 of this subsection, a retired
17 classified or nonclassified member who has been retired for thirty-
18 six (36) or more months and who is employed by a public school to
19 perform duties ordinarily performed by classified or nonclassified
20 personnel shall be able to receive annualized earnings from the
21 public school with no reduction in retirement benefits regardless of
22 the amount of annualized earnings. For a period of three (3) years
23 beginning July 1, 2017, members who have retired as of July 1, 2017,
24 as active classroom teachers, who have been retired and receiving a

1 benefit for at least one (1) year, and who have not been employed by
2 any public school during that one-year period, shall be eligible to
3 be reemployed as an active classroom teacher in common or career
4 tech school districts, with no limitations on earnings. The one-
5 year period starts with the retiree's last day of preretirement
6 public education employment. Members returning under this section
7 shall not be subject to any earning limitations following the end of
8 the three-year period described in this paragraph. Members
9 returning under this section shall only be employed pursuant to a
10 temporary contract; and

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

19 B. A public school district that employs a retired member shall
20 be required to make contributions to the System for the retired
21 member in an amount as required in Section 17-108.1 and in paragraph
22 3 of subsection B of Section 17-116.2 of this title.

23 C. For purposes of this section, ~~post-retirement~~ postretirement
24 employment of less than one thousand (1,000) hours per year with the

1 Governor, the State Senate, the House of Representatives or the
2 Legislative Service Bureau shall not be considered as ~~post-~~
3 ~~retirement~~ postretirement employment with a public school of
4 Oklahoma.

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

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

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

15 SECTION 4. It being immediately necessary for the preservation
16 of the public peace, health or safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval."
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1 ENGROSSED SENATE
2 BILL NO. 428

By: Smalley of the Senate

3 and

4 Henke of the House
5

6 An Act relating to teacher retirement; amending 70
7 O.S. 2011, Section 17-116.10, as amended by Section
8 4, Chapter 101, O.S.L. 2013 (70 O.S. Supp. 2016,
9 Section 17-116.10), which relates to post-retirement
10 employment; conforming language; excluding certain
11 employees from retirement classification; allowing
12 certain retired teachers to return at full pay;
13 providing an effective date; and declaring an
14 emergency.

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

16 SECTION 5. AMENDATORY 70 O.S. 2011, Section 17-116.10,
17 as amended by Section 4, Chapter 101, O.S.L. 2013 (70 O.S. Supp.
18 2016, Section 17-116.10), is amended to read as follows:

19 Section 17-116.10. A. Subject to the requirements of Section
20 6-101.2 of this title and any other applicable requirements of law,
21 a member may enter into post-retirement employment with a public
22 school of Oklahoma and still receive monthly retirement benefits
23 subject to the following limitations:

24 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 pre-retirement public-

1 education employment and any post-retirement public-education
2 employment. For purposes of this section, the term "last day of
3 pre-retirement employment" shall mean the last day the employee is
4 required to be physically present on the job to complete the terms
5 of the employment contract or agreement. An employee on paid leave
6 is still considered to be employed for purposes of this section.

7 Employment under any conditions during this time, volunteer services
8 for the purpose of obtaining a paid position at a later date, or
9 payment at a later time for services performed during this time
10 period shall cause the forfeiture of all retirement benefits
11 received during the period;

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

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

- 8 a. earnings shall mean "regular annual compensation" as
9 defined in paragraph (25) of Section 17-101 of this
10 title, and shall include any payment by a public
11 school for services rendered by a retired member who
12 is employed for any purpose whatsoever. Supplemental
13 retirement payments paid by a former public school
14 employer pursuant to subsection 9 of Section 17-105 of
15 this title or other state law shall not be considered
16 as earnings,
- 17 b. the Earnings Limitation for employees allowed by the
18 Social Security Administration to workers between the
19 age of sixty-two (62) years and sixty-five (65) years
20 shall apply to retired members below the age of sixty-
21 two (62) years,
- 22 c. the limit on allowed earnings from the public schools
23 shall be automatically adjusted effective the first
24 day of January of each year to reflect the current

- 1 Earnings Limitation for employees as determined from
2 time to time by the Social Security Administration,
3 d. the earnings limit for the calendar year in which a
4 member retires shall be one-twelfth (1/12) of the
5 annual limit multiplied by the number of months the
6 member is eligible to work and receive payments from
7 the public schools of Oklahoma,
8 e. earnings in excess of the maximum limit on allowed
9 earnings from public schools of Oklahoma shall result
10 in a loss of future retirement benefits for the year
11 the post-retirement employment was performed of One
12 Dollar (\$1.00) for each One Dollar (\$1.00) earned over
13 the maximum allowed earnings amount,
14 f. for those members age seventy (70) years and over, the
15 earnings in excess of the maximum limit allowed
16 earnings from public schools of Oklahoma shall be one-
17 half (1/2) the member's final average salary used in
18 computing retirement benefits. However, any retired
19 member receiving benefits from the Retirement System
20 who reached age seventy (70) years prior to July 1,
21 1991, shall not be restricted by the earnings limits
22 pursuant to this subparagraph until January 1, 1994.
23 To qualify for the provisions of this subparagraph,
24 the member must be employed less than one-half (1/2)

1 time compared to other full-time employees in similar
2 positions;

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

20 4. A member shall be considered to be employed by a school
21 district to perform the duties ordinarily performed by classified or
22 nonclassified personnel if the member is hired by the school
23 district in the member's individual capacity to perform the duties
24 or if the member performs the duties through employment with a

1 proprietorship, partnership, corporation, limited liability company
2 or partnership, or any other business structure that has agreed or
3 contracted to provide the services to the school district.

4 B. A public school district that employs a retired member shall
5 be required to make contributions to the System for the retired
6 member in an amount as required in Section 17-108.1 and in paragraph
7 3 of subsection B of Section 17-116.2 of this title.

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

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

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

21 SECTION 6. This act shall become effective July 1, 2017.

22 SECTION 7. It being immediately necessary for the preservation
23 of the public peace, health or safety, an emergency is hereby
24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3 Passed the Senate the 22nd day of March, 2017.

4

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Presiding Officer of the Senate

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7 Passed the House of Representatives the ____ day of _____,

8 2017.

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Presiding Officer of the House
of Representatives

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