

# An Act

ENROLLED SENATE  
BILL NO. 428

By: Smalley of the Senate

and

Henke, Nollan and Hoskin of  
the House

An Act relating to teacher retirement; amending 70 O.S. 2011, Sections 17-105, as last amended by Section 1, Chapter 129, O.S.L. 2016 and 17-116.10, as amended by Section 4, Chapter 101, O.S.L. 2013 (70 O.S. Supp. 2016, Sections 17-105 and 17-116.10), which relate to the Teachers' Retirement System; 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.

SUBJECT: Teacher retirement

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

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

Section 17-105. (1) (a) Any member who has attained age fifty-five (55) or who has completed thirty (30) years of creditable service, as defined in Section 17-101 of this title, or for any person who initially became a member prior to July 1, 1992, regardless of whether there were breaks in service after July 1,

1992, whose age and number of years of creditable service total eighty (80) may be retired upon proper application for retirement on forms established by the System and executing a retirement contract. Such a retirement date will also apply to any person who became a member of the sending system as defined in ~~this act~~ Section 17-101 et seq. of this title, prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992. Any person who became a member after June 30, 1992, but prior to November 1, 2011, whose age and number of years of creditable service total ninety (90) may be retired upon proper application for retirement and executing a retirement contract. Any person who becomes a member on or after November 1, 2011, who attains the age of sixty-five (65) years or who reaches a normal retirement date pursuant to subparagraph (d) of paragraph (24) of Section 17-101 of this title having attained a minimum age of sixty (60) years may be retired upon proper application for retirement and executing a retirement contract. The application shall be filed on the form provided by the Board of Trustees for this purpose, not less than sixty (60) days before the date of retirement, provided that the Executive Director may waive the sixty-day deadline for good cause shown as defined by the Board.

1. The employer shall provide the System with the following information for a retiring member, no later than the fifteenth day of the month of retirement:  
last day physically on the job; last day on payroll; any regular compensation not already reported to the System; and final unused sick leave balance.
2. Failure to submit this information by the deadline, or errors in submitted information that result in a disqualification of retirement eligibility shall be the responsibility of the employer. In cases where the error results in disqualification of retirement eligibility, it is the employer's responsibility to reemploy the member, or retain the member on the payroll, for the time period required to reach eligibility, not exceeding two (2) months.

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

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

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

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

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

Any individual regardless of residence, who has a minimum of ten (10) years of teaching in Oklahoma schools prior to July 1, 1943, or who taught in Oklahoma schools prior to 1934 and thereafter taught a minimum of ten (10) years and who does not qualify under the present retirement System, or who has a minimum of thirty (30) years of teaching in Oklahoma schools and has reached seventy (70) years of age prior to July 1, 1984, and is not otherwise eligible to receive any benefits from the retirement system shall receive a minimum of One Hundred Fifty Dollars (\$150.00) per month in retirement benefits from the Teachers' Retirement System of Oklahoma plus any general increase in benefits for annuitants as may be provided hereafter by the Legislature. Each individual must apply to the Teachers' Retirement System for such benefit and provide evidence to the Teachers' Retirement System that the service was actually rendered.

The surviving spouse of any person who made application for the benefit provided for by this paragraph during his or her lifetime but did not receive said benefit may submit an application to the System for payment of said benefit for those months during the lifetime of the deceased person that he or she was eligible for but did not receive the benefit. Upon approval of the application by the Board of Trustees, the benefit shall be paid to the surviving spouse in one lump sum.

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

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

(6) (a) A member who at the time of retirement has been found to be permanently physically or mentally incapacitated to ~~teach school~~ perform the necessary duties to continue in his or her current position shall receive a minimum monthly retirement payment for life or until such time as the member may be found to be recovered to the point where he or she may return to teaching. Any

member retired before July 1, 1992, shall be eligible to receive the monthly retirement allowance herein provided, but such payment shall not begin until the first payment due him or her after July 1, 1992, and shall not be retroactive. The Board of Trustees is empowered to make such rules and regulations as it considers proper to preserve equity in retirements under this provision, which shall include a provision to protect the rights of the member's spouse.

(b) A member who has qualified for retirement benefits under disability retirement shall have the total monthly payment deducted from his or her accumulated contributions plus interest earned and any money remaining in the member's account after the above deductions at the death of the member shall be paid in a lump sum to the beneficiary or to the estate of the member. Provided, if the deceased disabled member had thirty (30) years or more of creditable service and the death occurred after June 30, 1981, and death occurred prior to the disabled member receiving twelve monthly retirement payments, a surviving spouse may elect to receive the retirement benefit to which the deceased member would have been entitled at the time of death under the Option 2 Plan of Retirement provided for in subsection (8) of this section in lieu of the death benefit provided for in this subsection and in subsection (12) of this section.

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

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

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

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

(7) Should a member before retirement under Section 1-101 et seq. of this title make application for withdrawal duly filed with the ~~Board of Trustees and approved by it~~ System, not earlier than four (4) months after the date of termination of such service as a teacher, the contribution standing to the credit of his or her individual account in the Teachers' Savings Fund shall be paid to him or her or, in the event of his or her death before retirement, shall be paid to such person or persons as he or she shall have nominated by written designation, duly executed and filed with the ~~Board of Trustees~~ System; provided, however, if there be no designated beneficiary surviving upon such death, such contributions shall be paid to his or her administrators, executors, or assigns, together with interest as hereinafter provided. In lieu of a lump-sum settlement at the death of the member, the amount of money the member has on deposit in the Teachers' Savings Fund and the money the member has on deposit in the Teachers' Deposit Fund may be paid in monthly payments to a designated beneficiary, who must be the spouse, under the Maximum or Option 1 Plan of Retirement providing the monthly payment shall be not less than Twenty-five Dollars (\$25.00) per month. The monthly payment shall be the actuarial equivalent of the amount becoming due at the member's death based on the sex of the spouse and the age the spouse has attained at the last birthday prior to the member's death. Provided further, if there be no designated beneficiary surviving upon such death, and

the contributions standing to the credit of such member do not exceed Two Hundred Dollars (\$200.00), no part of such contributions shall be subject to the payment of any expense of the last illness or funeral of the deceased member or any expense of administration of the estate of such deceased and the ~~Board of Trustees System~~, upon satisfactory proof of the death of such member and of the name or names of the person or persons who would be entitled to receive such contributions under the laws of descent and distribution of the state, may authorize the payment of accumulated contributions to such person or persons. A member terminating his or her membership by withdrawal after June 30, 2003, shall have the interest computed at a rate of interest determined by the ~~Board of Trustees System~~ and paid to him or her subject to the following schedule:

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

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

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

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

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

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

(b) A member may select the option under which he or she desires to retire at the end of the school year in which he or she attains age seventy (70) and ~~said~~ the option shall be binding and

cannot be changed. Provided further that if a member retires before age seventy (70), no election of an option shall be effective in case an annuitant dies before the first payment due under such option has been received.

(c) The first payment of any benefit selected shall be made on the first day of the month following approval of the retirement by the System. If the named designated beneficiary under Option 2 or 3 dies at any time after the member's retirement date, but before the death of the member, the member shall return to the retirement benefit, including any ~~post-retirement~~ postretirement benefit increases the member would have received had the member not selected Option 2 or 3 of this subsection. The benefit shall be determined at the date of death of the designated beneficiary or July 1, 1994, whichever is later. This increase shall become effective the first day of the month following the date of death of the designated beneficiary or July 1, 1994, whichever is later, and shall be payable for the member's remaining lifetime. The member shall notify the Teachers' Retirement System of Oklahoma of the death of the designated beneficiary in writing. In the absence of ~~said~~ the written notice being filed by the member notifying the Teachers' Retirement System of Oklahoma of the death of the designated beneficiary within six (6) months of the date of death, nothing in this subsection shall require the Teachers' Retirement System of Oklahoma to pay more than six (6) months of retrospective benefits increase.

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

Option 2. A member takes a reduced retirement allowance for life. Upon the death of the member the payments shall continue to the member's designated beneficiary for the life of the beneficiary. The written designation of the beneficiary must be duly acknowledged and filed with the ~~Board of Trustees~~ System at the time of the member's retirement and, except as provided in paragraph (e) of this



