

SENATE FLOOR VERSION

February 20, 2017

AS AMENDED

SENATE BILL NO. 428

By: Smalley

An Act relating to teacher retirement; amending 70 O.S. 2011, Section 17-116.10, as amended by Section 4, Chapter 101, O.S.L. 2013 (70 O.S. Supp. 2016, Section 17-116.10), which relates to post-retirement 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.

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

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

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

1. A retired member is not eligible to be employed by the public schools of Oklahoma, in any capacity, for sixty (60) calendar days between the retiree's last day of 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 2. This act shall become effective July 1, 2017.

22 SECTION 3. It being immediately necessary for the preservation
23 of the public peace, health or safety, an emergency is hereby
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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 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
4 February 20, 2017 - DO PASS AS AMENDED
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