

**TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM  
CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM**

**SUBCHAPTER 3. CREDITED SERVICE**

**590:10-3-9. Purchase price payments**

(a) An active member of the System may elect the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase of previous non-participating elected service, or to purchase an increase in the contribution rate, or any other purchase or repayment permitted and authorized by the statutes governing the System, to be amortized in monthly installments to the extent allowed by law.

(1) A payment schedule may be established allowing the member to make monthly payments through payroll deductions by the member's employer if the employer agrees to make the deductions and remit payments to the System. Payments remitted by an employer for its employees must be kept separate from employer's regular retirement contributions or any other payments to the System including Deferred Compensation. Such payments do not qualify as "pre-tax" contributions under "employer pick-up" provisions of Section 414(h) of the Internal Revenue Code.

(2) The installment payment schedule provided for in this section must be in monthly increments. The minimum total monthly payment is \$25.00. The member shall be responsible for maintaining the payment schedule. The payment due date will be based on the payroll schedule set by the member's employer. An installment not paid within sixty (60) days of the due date will result in termination of the installment payment schedule with the member given the option of paying the balance of the actuarial cost or receiving partial credit for payments made under the installment schedule as provided for in subsection (4) of this section.

(3) The monthly payment will be determined by amortizing the total amount due for the service to be purchased over the period of the installment schedule using an interest rate equal to the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings for the year in which the payment schedule is commenced.

(4) Except as provided in subsection (8) of this section, if the installment payment is terminated for any reason, including termination of employment, death of the member or by cessation of payments, the member or the beneficiary of the member will have the option of paying the remaining balance within six (6) months. If the balance is not paid, the member will receive credit for service prorated for only the principal amount paid and rounded to the last full month paid for. No refunds will be paid to the member.

(5) Credit for service purchased on an installment schedule will not be added to the member's account until the entire balance is paid, except as provided for in subsection (4) of this section. All payments must be completed in the month prior to the effective retirement date of the member. If any member or beneficiary elects to pay the balance during the 6 month period provided for in Subsection (4) of this Section, no benefits will be payable until the completion of said 6 month period, or receipt of a signed waiver. In no event will retroactive benefit payments be made, and the effective retirement date will be adjusted to the first day of the month following the completion of payments or receipt of waiver.

(6) Payments may be made directly to the System by the member or beneficiary if the member is in an unpaid leave status, if the payroll is not sufficient to handle the entire payment, in the event of payroll error where employer fails to withhold the proper amount or during the six (6) month period referred to in subsection (4) of this Section.

(7) Except as provided in subsection (8) of this section, if the purchase is terminated for any reason, the purchase cannot be made at anytime in the future, following the 6 month option referred to in Subsection (4) of this Section. By failing to complete this purchase, the member or beneficiary forfeits the right to the purchase at any other time.

(8) If the installment payment for the repayment of a previous withdrawal is terminated for any reason, the member, upon returning to employment and meeting the eligibility requirements for membership, may pay the remaining principal balance at any time prior to the month of the effective retirement date. The total due shall be the unpaid principal balance, plus interest pursuant to 74 O.S. § 917(5), calculated from the date of the last installment payment received and paid in a one-time lump sum amount.

(b) Effective January 1, 2002, in lieu of installment payments, an active member may elect to make the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase of previous non-participating elected service, or to purchase an increase in the contribution rate, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System by use of a direct trustee to trustee transfer from a 457 deferred compensation plan or a 403(b) tax sheltered annuity program.

(c) Effective January 1, 2002, in lieu of installment payments or a direct transfer, an active member may elect to make the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase of previous non-participating elected service, or to purchase an increase in the contribution rate, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System by a rollover. The payment may be made by participant rollover contributions and/or direct rollovers of eligible rollover distributions made after December 31, 2001, from the following:

- (1) a qualified plan described in section 401(a) or 403(a) of the Internal Revenue Code;
- (2) an annuity contract described in section 403(b) of the Internal Revenue Code;
- (3) an eligible plan under section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; or
- (4) a participant rollover contribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled over ~~and would otherwise be includable in gross income.~~

**590:10-3-14. Elected official service credit**

**(a) First elected service on or after August 22, 2008.** Any member of the System before August 22, 2008, who is first elected or appointed on or after August 22, 2008, and who retires as an elected official with at least six (6) years in elected office, may count all of his or her non-elected service which occurred prior to the elected service, if any, as if it were elected service. The applicable contribution rate selected by the elected official shall apply and the calculation of the benefit shall be made in accordance with the provisions of 74 O.S. §913.4. However, in no event shall the retirement benefits be more than one hundred percent (100%) of his or her highest

contiguous twelve (12) months of compensation earned as an elected official or as a non-elected member.

(b) **Joining System on or after August 22, 2008.** Any member who first joins the System on or after August 22, 2008, shall have elected and non-elected service separately calculated as follows:

(1) All non-elected credited service will be calculated at the applicable factor multiplied by the member's final average compensation and multiplied by the non-elected years.

(2) All elected service will be multiplied by the appropriate computation factor corresponding to the contribution rate selected by the member as an elected official. The salary used for the benefit formula for elected service shall be the elected official's single highest annual compensation as an elected official.

(3) The calculations provided for in paragraphs (1) and (2) of this subsection (b) will then be added together to determine the total benefit for such member. Under no circumstances shall the elected official be entitled to apply the contribution rate and the corresponding computation factor selected pursuant to 74 O.S. §913.4(A) or the compensation received as an elected official to the computation of any non-elected service.

(4) Fractional year computations made under this section shall be calculated in accordance with 590:10-7-9.

(c) **Elected service prior to August 22, 2008.** The amendments to 74 O.S. §913.4(C)(3) and (4) in Enrolled Senate Bill 1641 of the 2<sup>nd</sup> Regular Session of the 51<sup>st</sup> Legislature (2008), Section 1, Chapter 105, O.S.L. 2008, did not amend or affect the calculation of service credit for any elected official who was a member of this System and who served as an elected official prior to August 22, 2008.

(d) **Effective date.** The authorizing legislation for determining elected official service credit provided by this section is Enrolled Senate Bill 1641 of the 2<sup>nd</sup> Regular Session of the 51<sup>st</sup> Legislature (2008), Section 1, Chapter 105, O.S.L. 2008. The emergency clause in SB 1641 failed thereby making the effective date of the legislation ninety (90) days following sine die adjournment, or August 22, 2008. The internal references to July 1, 2008, in 74 O.S. §913.4(C)(3) and (4), shall be interpreted to mean August 22, 2008.

## **SUBCHAPTER 7. RETIREMENT BENEFITS**

### **590:10-7-13. Filing for retirement and Initial retirement benefit**

(a) It is the responsibility of all members to file a notice of retirement form with the System at least sixty (60) days but not more than one hundred eighty (180) days prior to the member's requested effective retirement date. Any member who has previously filed an application for vested benefit form or who has been identified by the System as eligible to receive a retirement benefit due to reaching the age requiring mandatory distribution will be considered to have met the sixty (60) day notice requirement; however, it is the responsibility of any such vested or other member to file a retirement form selecting the type of benefit to be paid prior to the member's requested retirement date. All retirement forms shall be prescribed, produced and approved by the System in order to constitute proper notice and retirement selection.

(b) The sixty (60) day notice requirement can be waived by application to the Executive Director. The application for waiver must state the reason for the request and the decision to grant the waiver is up to the Executive Director. Upon request of the member, the Board may review at its next regular meeting any denial of a waiver by the Executive Director. Members are presumed to be familiar with the plan provisions and aware of the notice requirement and the Executive Director will grant the waiver only for good cause shown. Good cause is generally shown in cases of an unforeseen hardship, such as illness of the member or a member's family or a reduction in force, layoff of employment, or other unexpected change in job status. Good cause is also generally shown in cases of error or delay on the part of the employer and the error or delay is due to no fault of the member.

(c) No retirement benefits are payable until the System verifies that the member has been removed from the payroll; therefore, the initial retirement benefit payment to new retirees shall be made at the end of the month following the month of retirement. Two benefit payments will be made at that time representing the month of retirement and the current month. Following this initial verification period, retirement benefits will be payable each month on the last day of that month.

(d) No retirement benefits shall be payable until the System receives a properly completed retirement form requesting such benefits. Unless otherwise specifically provided by law or by these rules, no benefits shall be payable retroactively for any time period prior to receiving the member's properly completed retirement form regardless of when the member may have become eligible for such benefits. The requested retirement date of the member shall be made in accordance with the requirements of this section.

#### **590:10-7-18. Post-retirement employment – eligibility**

(a) **Retiree subject to restrictions.** Returning to work for a participating employer may affect the retirement benefit of a retiree. A retiree returning to work for a participating employer is subject to various state and federal restrictions, including, but not limited to, the requirements set forth in 74 O.S. § 914 and certain Internal Revenue Service regulations.

(b) **Bona fide termination of employment.** Prior to the payment of any retirement benefit to a member, the participating employer shall certify in writing to the System that the member has terminated ~~their~~ employment. Termination of employment shall be governed by guidelines and regulations set forth by the Internal Revenue Service, and shall generally mean the member must have experienced a bona fide separation, severance or termination of employment or service in which the employer and employee relationship is completely severed. Changing from full-time to part-time employment with the same participating employer does not qualify as a bona fide termination.

(c) **Returning to work for former employer.** A retiree may not be rehired in any capacity by the retiree's same participating employer for a period of one (1) year after the retiree's initial retirement from such same participating employer. A retiree may not enter into an employment contract of any kind, including through a third party, with the same participating employer for a period of one (1) year after retiring from such same participating employer. The provisions of this subsection shall not apply if the retiree waives his or her benefit as provided under 74 O.S. §914(E)(2).

~~(e)~~(d) **Pre-arranged rehires.** If any agreement is made between the employee and the employer prior to the retirement of the employee which would allow the employee to return to

work for the same participating employer, the retirement of such employee shall not be considered a bona fide termination of employment. Upon discovery of such an agreement, the employee shall be subject to having the retirement benefits stopped pursuant to 74 O.S. § 914(D).

~~(d)~~(e) **Independent contractors.**

(1) A retired member who provides services as an independent contractor to a participating employer shall not participate in the System. However, the employer must submit a copy of the contract to OPERS for approval in advance of the effective date of the contract. The contract must be a true contract labor situation where the individual engages to perform certain services according to his or her own method and manner, free from control and direction of the employer in the performance of the service except the result thereof. Review of the contract shall include, but not be limited to:

- (A) the degree of the right to control or supervise the work of the individual;
- (B) payment of self-employment taxes;
- (C) whether any benefits or leave time are paid;
- (D) the nature and length of the contract;
- (E) whether the work is part of the regular business of the employer, and;
- (F) the right of either party to terminate the relationship without liability.

(2) If an individual after retirement is doing the same work for the same employer as the individual did prior to retirement, the System will consider the individual to be an employee and not an independent contractor. In no event will an employment contract be accepted by the System if it is determined that the contract was arranged or agreed to prior to the retirement of the employee. In such cases, the System will consider the relationship to be that of employer and employee, and the employer and employee will be subject to the laws and rules regarding post-retirement employment.

## **SUBCHAPTER 19. MEDICARE GAP BENEFIT OPTION**

### **590:10-19-3. Medicare Gap Benefit option**

(a) An alternate retirement benefit option is available to members of the Oklahoma Public Employees Retirement System provided an election form is properly completed and filed with the System after the Option Effective Date and prior to the member's effective retirement date. This alternate benefit option shall be called the Medicare Gap Benefit option. The Medicare Gap Benefit option is intended to permit certain members of the System to elect to receive an increased retirement benefit amount to help cover the cost of the health insurance premiums prior to the time that the member becomes Medicare-eligible, however, the Medicare Gap Benefit may not equal or cover the entire cost of the member's actual health insurance premiums.

(b) As a result of the passage of Section 2 of Enrolled Senate Bill 1112 from the 1<sup>st</sup> Session of the 51<sup>st</sup> Oklahoma Legislature (2007), members electing the Medicare Gap Benefit Option with a retirement effective date on or after July 1, 2007, shall have the Medicare Gap Benefit determined in accordance with these rules.

(c) Despite any provision to the contrary, all members who made the Medicare Gap Benefit Election with a retirement effective date from May 1, 2006, the Option Effective Date, through June 30, 2007, Medicare Gap Benefit means an adjusted retirement benefit which is greater than the member's Regular Retirement Benefit beginning with the first retirement benefit payment

through December of the year the member becomes Medicare-eligible. Beginning in January of the year following such year that the member becomes Medicare-eligible, the retirement benefit will be actuarially reduced making the member's benefit less than the Regular Retirement Benefit for the remaining lifetime of the member.

(d) Any member who has previously filed an application for vested benefits or any other non-active vested member who is considered to have met the sixty (60) day notice requirement for filing his or her retirement application may be permitted to file the election form provided by this section after the member's effective retirement date. However, this filing shall only be permitted if the System determines the member was unable to timely make such election prior to the effective retirement date. In no event shall the filing of this election form be permitted less than fifteen (15) days prior to the first benefit payment to the member. Any election form received and approved by the System within this fifteen-day period shall result in the retirement date of the member being moved to the next month.