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Permanent Final Adoptions

is corrected and all manually recorded sales are correctly submitted to the electronic log.

475:55-1-10. Prescriptions

The ~~nine (9) gram per month~~ threshold limits set forth in Oklahoma Statutes, Title 63 §2-212 shall not apply to Schedule V pseudoephedrine products that are dispensed pursuant to a valid prescription.

[OAR Docket #13-452; filed 3-28-13]

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

[OAR Docket #13-506]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 2. Definitions

590:10-2-2. Normal retirement age [NEW]

Subchapter 5. Contributions and Compensation

590:10-5-9. Changes to contribution rates; deadline for notifying System [NEW]

Subchapter 7. Retirement Benefits

590:10-7-9. Fractional year computations [AMENDED]

590:10-7-14.1. Seasonal or temporary employment; calculation of 1,000 hours [NEW]

Subchapter 17. Step-Up Election and Benefits

590:10-17-2. Eligibility for Step-Up [AMENDED]

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees, 74 O.S., §§ 902, 913, 913.4, 920A, 920B

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ANALYSIS:

A new rule is added at 590:10-2-2 defining normal retirement age. The rule sets forth the statutory eligibility requirements for retirement. This amendment was required by the Internal Revenue Service for plan qualification and to comply with the Internal Revenue Code.

A new rule is added at 590:10-5-9 setting forth a long-standing agency policy of requiring local participating employers to submit to OPERS changes to contribution rates by June 30 of each year for the next fiscal year.

The amendment to 590:10-7-9 prohibits rounding of service years for members who join the System after November 1, 2012, and for elected officials first elected or appointed on or after November 1, 2011. This amendment complies with newly enacted provisions of Enrolled House Bill 2321 (2012) amending 74 O.S. §§913 and 913.4.

A new rule is added at 590:10-7-14.1 and defines seasonal or temporary employment for purposes of determining eligible employees in the System. The rule also sets forth how the System calculates and determines the 1,000 hour threshold necessary to be an eligible member.

The amendment to 590:10-17-2 incorporates new law which permits elected officials elected or appointed on or after November 1, 2011, to participate in the Step-Up program. The amendment complies with newly enacted provisions of Enrolled House Bill 2322 (2012) amending 74 O.S. §913.4.

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Joseph A. Fox, General Counsel, Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, 405-858-6737

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2013:

SUBCHAPTER 2. DEFINITIONS

590:10-2-2. Normal retirement age

(a) In addition to any other vesting provided under state law, and except as provided in 51 O.S. §24.1, a member's normal retirement benefit is nonforfeitable upon the attainment of the following normal retirement ages and the completion of the specified years of service:

(1) For a member who is a state, county, and local agency employee, joining before November 1, 2011, age sixty-two (62), with a minimum of six (6) years of full-time-equivalent employment if actively employed by a participating employer on their 62nd birthday, otherwise a member must have eight (8) years of service.

(2) For a member who is a state, county, and local agency employee, joining on or after November 1, 2011, age sixty-five (65), with a minimum of six (6) years of full-time-equivalent employment if actively employed by a participating employer on their 65th birthday, otherwise a member must have eight (8) years of service.

(3) For a member who is a legislative session employee, joining before November 1, 2011, age sixty-two (62), with a minimum of three (3) or more years of full-time-equivalent employment if actively employed by a participating employer on their 62nd birthday, otherwise a legislative session employee must have four (4) years of service.

(4) For a member who is a legislative session employee, joining on or after November 1, 2011, age sixty-five (65), with a minimum of three (3) or more years of full-time-equivalent employment if actively employed by a participating employer on their 65th birthday, otherwise a legislative session employee must have four (4) years of service.

(5) For an elected official elected or appointed before November 1, 2011, age sixty (60) with a minimum of six (6) years of participating service.

(6) For an elected official elected or appointed on or after November 1, 2011, age sixty-five (65) with a minimum of eight (8) years of participating service, or age sixty-two (62) with a minimum of ten (10) years of participating service.

(b) A member is also vested in full retirement benefits under the following conditions:

(1) Except as otherwise provided in this subsection, for a member who is a state employee (including a legislative session employee), county employee, and local agency employee, joining before July 1, 1992, when the sum of the member's age and years of credited service equals or exceeds 80 (Rule of 80), and for any person who became a member after June 30 1992, when the sum of the member's age and years of credited service equals or exceeds 90 (Rule of 90). For a member joining on and after November 1, 2011, the Rule of 90 is only applicable if the member has reached age 60.

(2) Notwithstanding (b)(1) above, for an elected official elected or appointed before November 1, 2011, the Rule of 80 is applicable.

(3) Notwithstanding (b)(1) above, for an elected official elected or appointed on or after November 1, 2011, the Rule of 80 is not applicable.

(c) A hazardous duty employee is treated as a state, county, or local employee for purposes of this section. In addition, a hazardous duty employee is also vested in a full retirement benefit upon the completion of twenty (20) years of service.

SUBCHAPTER 5. CONTRIBUTIONS AND COMPENSATION

590:10-5-9. Changes to contribution rates; deadline for notifying System

Any county, county hospital, city or town, conservation district, circuit engineering district or any public or private trust in which a county, city or town participates and is the primary beneficiary, which is a participating employer and which is permitted pursuant to 74 O.S. §920A to modify the amount of contributions paid by the employer and employee shall make such modification and notify the System no later than June 30 of each year for a July 1 effective date. Any contribution modification adopted, approved or received after June 30 shall not be effective until July 1 of the following fiscal year.

SUBCHAPTER 7. RETIREMENT BENEFITS

590:10-7-9. Fractional year computations

(a) Rounding of fractional year. Pursuant to 74 O.S. §913(C), a fractional year of six (6) months or more shall be considered as one (1) year and less than six (6) months shall be disregarded. This round-up provision may be used one time

for credited service of a member to establish the benefit of the member. This rule is necessary to prevent the gain or loss of service credit to a member. In no event shall the rounding up provisions apply if it would result in any member receiving an additional year or years that the member would not otherwise be entitled to receive.

(b) Rounding for members joining on or after November 1, 2012. Notwithstanding the provisions of subsection (a) of this section, for members who join the System on or after November 1, 2012, rounding of fractional years shall not be permitted. The number of years of credited service shall be based on the actual years and months of credited service without rounding up or down. Unused sick leave, as provided for in 74 O.S. §913(B)(7)(a), shall be credited at the same rate but not used to round up to another year. Any additional months of unused sick leave credit shall be added to other service credit without any rounding.

(bc) Correctional and probation and parole officers. Pursuant to 74 O.S. §915(A), the computation of retirement benefits of Department of Corrections Correctional and Probation and Parole Officers is 2.25% for certain credit prior to July 1, 1990, and 2.5% for certain credit after July 1, 1990, and 2% for all other credit.

(1) Such members may retire with fractional years of service credit in the 2.25% and the 2.5% categories and the statutes only provide for computation at these rates on full years of service. Due to the fact that only the total credited service can be rounded up, some members may face losing a year of service credit when the fractional years of credit are disregarded.

(2) To prevent such a loss of service credit, the fractional portions of years in the 2.25% and the 2.5% categories will be added to the years of credit used in the 2% category and rounded up therein, if applicable. If a member still loses a year of service credit after adding the fractional years to the 2% category, the fractional years may be added to the 2.25% category and rounded up therein, if applicable.

(ed) Hazardous Duty Members. Hazardous Duty Members who elect to participate or are required to participate at the higher employee contribution rate will receive retirement benefits at the 2.5% category only on full years of service as Hazardous Duty Members for which the higher contributions have been paid. The fractional portions of years in the 2.5% category will be added to any other service credit, calculated in the 2% category and rounded up therein, if applicable, for the computation of the retirement benefit.

(de) Elected officials.

(1) If first elected or appointed prior to November 1, 2011, elected officials who do not participate in an elected status for at least six (6) full years will receive retirement benefits on the years and months of elected service instead of full years. The benefit shall be calculated using the computation factor corresponding to the contribution rate the official paid during those years and months of elected service and on the highest annual salary earned as an elected official. Non-elected service credit will be calculated using the applicable computation factor. The elected

Permanent Final Adoptions

and non-elected service shall be added to determine the total credited service. If this total results in a fractional year of six (6) months or more, it shall be considered as one year, and less than six (6) months shall be disregarded. The years and months of elected service shall then be deducted from the total credited service and the remaining balance of service shall be calculated using the applicable non-elected service computation factor.

(2) If first elected or appointed on or after November 1, 2011, elected officials who do not participate in an elected status for at least eight (8) full years will receive retirement benefits on the years and months of elected service instead of full years. The contribution rate for such officials shall be as specified in 74 O.S. §919.1(1)(a) and the amount of the benefit shall be based on the provisions of 74 O.S. §915(A)(1).

(ef) **Elected officials participating at more than one rate.** Elected officials who participate at more than one contribution rate during their elected service will receive retirement benefits calculated using (1) the computation factor assigned for each contribution rate paid and (2) the highest annual salary for which that particular contribution rate was paid for each full year of elected service credit. Fractional years of elected service credit will be added to the years of elected service for which the highest contribution rate was paid and rounded up therein, if applicable, for the computation of the retirement benefit.

(g) **Rounding for elected officials joining System on or after November 1, 2011.** Elected officials who are first elected or appointed on or after November 1, 2011, rounding of fractional years shall not be permitted. The number of years of credited service shall be based on the actual years and months of credited service without rounding up or down.

590:10-7-14.1. Seasonal or temporary employment; calculation of 1,000 hours

(a) **Definition.** Seasonal or temporary employment shall mean employment that is limited in term, where the employee is only expected to remain in the position for a certain period of time. The employment can be seasonal or until the specific job or duty is completed. Employees who are hired in a job or position, that is non-seasonal with full-time work load and undefined duration or that requires more than 1,000 hours per year, whether designated as seasonal, temporary, probationary, provisional, or some other label, must be enrolled and participate in the System on the date of the hire and not at the end of a temporary, probationary, provisional, or some other labeled period. Employees hired purely for seasonal or temporary duties are excluded from participation in the System pursuant to 74 O.S. §902(14).

(b) **Failure to enroll employees.** Participating employers who fail to enroll employees when required by law shall be subject to the provisions of 74 O.S. §917(7) and any other provision of law which may be applicable.

(c) **Calculation of 1,000 hours.** In determining the eligibility of an employee in relation to the requirement of at least 1,000 hours of employment per year pursuant to 74 O.S. §902(14), the System shall calculate the hours using a rolling

year or a rolling 12 consecutive months. If an employee has at least 1,000 hours of work during any consecutive 12 month period, the employee shall meet the hours of work eligibility requirement. The determination or calculation of 1,000 hours shall not be based on a calendar year, fiscal year, or from the date of employment.

SUBCHAPTER 17. STEP-UP ELECTION AND BENEFITS

590:10-17-2. Eligibility for Step-Up

All state, county and local government employees who are active participants, including retired members who have returned to work, are eligible to make the Step-Up election, with the exception of ~~elected officials~~ and hazardous duty employees as provided in 590:10-1-15 of these rules (such as correctional officers, probation and parole officers, fugitive apprehension agents and Military Department firefighters) and elected officials elected or appointed before November 1, 2011. Elected officials who are first elected or appointed on or after November 1, 2011, shall be eligible to make the Step-Up election.

[OAR Docket #13-506; filed 4-5-13]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 15. UNIFORM RETIREMENT SYSTEM FOR JUSTICES AND JUDGES

[OAR Docket #13-507]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

590:15-1-22. Health insurance contribution [NEW]

590:15-1-23. Normal retirement age [NEW]

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees; 20 O.S., §§ 1101.1, 1102, 1108

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ANALYSIS:

New rule 590:15-1-22 sets forth the requirements for payment of the health insurance contribution to retirees in the URSJJ. This rule is necessary to keep the health insurance contributions and plan assets of the URSJJ separate from OPERS as required for governmental retirement plan under the Internal Revenue Code. The amendment was required by the IRS for plan qualification.

New rule 590:15-1-23 defines normal retirement age by setting forth the statutory eligibility requirements for retirement. This amendment was required by the Internal Revenue Service for plan qualification and to comply with the Internal Revenue Code.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

590:15-1-22. Health insurance contribution

(a) The Oklahoma Public Employees Retirement System as administrator of the Uniform Retirement System for Justices and Judges shall contribute the amount required by law towards the cost of health insurance coverage under the State and Education Employees Group Insurance Plan or other eligible group insurance plans only for retired members who actually receive a monthly retirement benefit for that month. This contribution shall not be made for beneficiaries, survivors or directly to the retired member.

(b) For eligible group health insurance plans other than the State and Education Employees Group Insurance Plan, the System will contribute the amount required by law after the group insurance plan has made application to the System and completed any necessary and required forms and/or agreements. The group insurance plan must be in compliance with Oklahoma law and offer insurance to all of the covered participating employer's employees, former employees who are vested and former employees who retired from that covered employer. The insurance plan shall provide a certification monthly detailing each covered retired member in the form and manner required by the System. The subsidy shall be paid in arrears for each eligible retired member.

(c) Pursuant to the federal Internal Revenue Code Section 401(h) and Treasury Regulation §1.401-14, the Retirement Medical Benefit Fund shall be maintained as a sub-account of the State Judicial Retirement Fund. From the Retirement Medical Benefit Fund, OPERS shall remit the amount specified in 74 O.S. Section 1316.2 for health insurance premiums.

(d) All contributions to the Retirement Medical Benefit Fund shall be reasonable and ascertainable.

(e) Contributions to the Retirement Medical Benefit Fund must be subordinate to the contributions to the State Judicial Retirement Fund for retirement benefits. At no time shall the aggregate actual contributions to the Retirement Medical Benefit Fund (when added to actual contributions for life insurance protection under the plan, if any) be in excess of twenty-five percent (25%) of the total aggregate actual contributions made to the State Judicial Retirement Fund (not including contributions to fund past service credits). The Board shall annually determine whether the twenty-five (25%) test has been met. If at any time the Retirement Medical Benefit Fund contributions (plus any life insurance contributions) would exceed the twenty-five percent (25%) test, the excess amount of contributions shall be transferred to the State Judicial Retirement Fund for retirement benefits.

(f) Forfeitures in the Retirement Medical Benefit Fund shall not be allocated to individual accounts under the fund, but shall be used for account expenses.

(g) At no time prior to the satisfaction of all liabilities under the Retirement Medical Benefit Fund or termination of the fund shall any assets in the fund be used for, or diverted to, any purpose other than the providing of payment of the URSJJ's portion of the monthly retiree health insurance premium benefit described by Title 74 O.S. Section 1316.2 and the payment of administrative expenses. Assets in the Retirement Medical Benefit Fund may not be used for retirement or disability benefits or any other purposes for which other assets held in the State Judicial Retirement Fund are used.

(h) The provisions of section 401(h)(5) of the Internal Revenue Code of 1986, as amended from time to time, shall apply upon the satisfaction of all liabilities under law and the State Judicial Retirement Fund.

590:15-1-23. Normal retirement age

(a) In addition to any other vesting provided under state law, and except as provided in 51 O.S. Section 24.1, a member's normal retirement benefit is nonforfeitable upon the attainment of the following normal retirement ages and the completion of the specified years of service:

(1) For a judge whose initial service as a member began prior to January 1, 2012, age sixty-five (65) upon completion of at least eight (8) years of service, or age sixty (60) upon completion of at least ten (10) years of service.

(2) For a judge whose initial service as a member began on or after January 1, 2012, age sixty-seven (67) upon the completion of at least eight (8) years of service, or age sixty-two (62) upon completion of at least ten (10) years of service.

(b) A member joining before January 1, 2012, is also vested in full retirement benefits upon when the sum of the member's age and years of credited service equals or exceeds 80 (Rule of 80). This provision is not applicable to those members joining on or after January 1, 2012.

[OAR Docket #13-507; filed 4-5-13]

Permanent Final Adoptions

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 25. DEFERRED COMPENSATION

[OAR Docket #13-508]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 9. Benefits

590:25-9-21. Discontinuance of 2009 required minimum distribution
[NEW]

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees; 74
O.S. §1701

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ANALYSIS:

New rule 590:25-9-21 sets forth the requirements relating to the waiver of the 2009 required minimum distributions as set forth in the federal Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA") and as described in IRS Notice 2009-82. This federal waiver was enacted in late 2008 and allowed beneficiaries to waive 2009 required minimum distributions from qualified retirement plans. Retirement plans were given time to adopt amendments to incorporate the federal provisions. This amendment was required by the Internal Revenue Service for plan qualification and is necessary to comply with the Internal Revenue Code.

CONTACT PERSON:

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULES ARE CONSIDERED
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SUBCHAPTER 9. BENEFITS

590:25-9-21. Discontinuance of 2009 required minimum distributions

(a) Notwithstanding the provisions of 590:25-9-1 through 25-9-5 of these rules, a participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Section 401(a)(9)(H) of the Internal Revenue Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant, the joint lives (or joint life expectancy) of the participant and the participant's designated beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the participant or beneficiary chooses not to receive such distributions. Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. In addition, notwithstanding 590:25-9-17 of these rules, and solely for the purposes of applying the direct rollover provisions of the plan, certain additional distributions in 2009 will be treated as eligible rollover distributions.

(b) For purposes of the direct rollover provisions of the plan, both 2009 RMDs and Extended RMDs will be eligible rollover distributions without regard to IRS Section 401(a)(9)(H).

[OAR Docket #13-508; filed 4-5-13]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 35. DEFERRED SAVINGS INCENTIVE PLAN

[OAR Docket #13-509]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 13. Benefits and Distributions

590:35-13-12. Discontinuance of 2009 required minimum distributions
[NEW]

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees; 74
O.S. §1707

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ANALYSIS:

New rule 590:35-13-12 sets forth the requirements relating to the waiver of the 2009 required minimum distributions as set forth in the federal Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA") and as described in IRS Notice 2009-82. This federal waiver was enacted in late 2008 and allowed beneficiaries to waive 2009 required minimum distributions from qualified retirement plans. Retirement plans were given time to adopt amendments to incorporate the federal provisions. This amendment was required by the Internal Revenue Service for plan qualification and is necessary to comply with the Internal Revenue Code.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2013:

SUBCHAPTER 13. BENEFITS AND DISTRIBUTIONS

590:35-13-12. Discontinuance of 2009 required minimum distributions

(a) Notwithstanding the provisions of 590:35-13-10 of the plan, a participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Section 401(a)(9)(H) of the Internal Revenue Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant, the joint lives (or joint life expectancy) of the participant and the participant's designated beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the participant or beneficiary chooses not to receive such distributions. Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. In addition, notwithstanding 590:35-13-9 of the plan, and solely for the purposes of applying the direct rollover provisions of the plan, certain additional distributions in 2009 will be treated as eligible rollover distributions.

(b) For purposes of the direct rollover provisions of the plan, both 2009 RMDs and Extended RMDs will be eligible rollover distributions without regard to IRS Section 401(a)(9)(H).

[OAR Docket #13-509; filed 4-5-13]