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Secretary of State  
Office of Administrative Rules



**Mary Fallin, Governor**  
**Chris Benge,**  
**Secretary of State**  
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places of the alleged occurrence, and the specific section or sections of the FPAA alleged to have been violated. The purpose of the complaint is to apprise the respondent fairly of the substance of the complaint against it. The sufficiency of a complaint may be challenged by motion, answer or other responsive pleading.

[OAR Docket #14-512; filed 6-24-14]

**TITLE 585. PUBLIC EMPLOYEES RELATIONS BOARD  
CHAPTER 35. CERTIFICATION CASES**

[OAR Docket #14-510]

**RULEMAKING ACTION:**  
PERMANENT final adoption  
**RULES:**  
Subchapter 1. General Provisions  
585:35-1-3 [AMENDED]  
**AUTHORITY:**  
Public Employees Relations Board; 11 O.S., §51-104(D)  
**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**  
n/a  
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Approved by Governor's Declaration on June 19, 2014  
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September 12, 2014  
**SUPERSEDED EMERGENCY ACTIONS:**  
N/A  
**INCORPORATIONS BY REFERENCE:**  
N/A  
**ANALYSIS:**

The permanent rule revisions to Chapter 35 provide consistency with the repeal of the Oklahoma Municipal Employee Collective Bargaining Act ("MECBA") by the Oklahoma Legislature (11 O.S. §51-200 et seq.) effective November 1, 2011 and to House Bill 1577, effective November 1, 2012.

**CONTACT PERSON:**  
Debbie Tiehen, Administrator, Public Employees Relations Board, Will Rogers Building, Room 206, 2401 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105, 405-522-6723, Debbie.Tiehen@omes.ok.gov

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 12, 2014:**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**585:35-1-3. Additional definitions**

The following words or terms, when used in these rules, shall have the following meaning, unless the context clearly indicates otherwise:

**"Administrator" or "Administrator of the Board"** means the program administrator of the Board appointed pursuant to 11 O.S., §51-104a.

**"APA"** means the Oklahoma Administrative Procedures Act, 75 O.S., §250, et seq.

~~**"Arbitrator"** means a person carried on the list of arbitrators maintained by the Federal Mediation and Conciliation Service who is located in the region in which Oklahoma is located.~~

**"Board" or "PERB"** means the Public Employees Relations Board.

**"FPAA"** means the Fire and Police Arbitration Act, 11 O.S., §51-101, et seq.

**"Hearing Officer"** means that individual designated by the Board to conduct a hearing. This individual must meet the definition of "Hearing Examiner" set out in 75 O.S. §250.3.

**"Party"** means any person, employee organization or municipal employer named and participating in, or properly seeking and entitled by law to participate in, an individual proceeding; or whose motion to intervene has been granted by the Board.

**"Quorum"** means ~~two~~three members of the Board shall constitute a quorum and may transact any business or hold any hearing by a unanimous vote of the quorum. Any action of the Board shall require the affirmative vote of ~~two~~three members.

[OAR Docket #14-510; filed 6-24-14]

**TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM  
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #14-719]

**RULEMAKING ACTION:**  
PERMANENT final adoption  
**RULES:**  
Subchapter 1. General Provisions  
590:1-1-9. Designee Board members [AMENDED]  
**AUTHORITY:**  
Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S., §§ 905, 909.  
**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**  
November 26, 2013  
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June 19, 2014

# Permanent Final Adoptions

## EFFECTIVE:

September 12, 2014

## SUPERSEDED EMERGENCY ACTIONS:

N/A

## INCORPORATIONS BY REFERENCE:

N/A

## ANALYSIS:

The amendment to 590:1-1-9 allows the Corporation Commission to select a designee of the Commission to act in place of the Commissioner as a member of the Board. The amendment also updates references to other Board positions. The amendment complies with the statutory changes made in Enrolled HB 1477 in 2013.

## CONTACT PERSON:

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., SECTIONS 250.3(5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 12, 2014:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 590:1-1-9. Designee Board members

(a) ~~The Administrator of the Office of Personnel Management, the State Insurance Commissioner and the Director of State Finance, the Office of Management and Enterprise Services, and the Corporation Commission~~ are authorized to designate an individual to act in his or her place as a member of the Board of Trustees. This designation must be in writing, signed by the designating official and filed with the System. The designation must clearly indicate the identity of the designee and whether the designation is limited as to duration or is an on-going designation. The designation should also set forth instructions as to membership on any Committees where the official is a member. Absent specific instructions regarding committee attendance, it is assumed that the designee is authorized to appear at both Committee and Board meetings. Once a proper designation is filed, the designee may appear at meetings and may act on any items properly before the Board.

(b) The Corporation Commission and the Oklahoma Tax Commission shall each select a member of the respective Commission to serve on the Board of Trustees. Each Commission shall provide a notification of the selection in writing, signed by the Chairman of the respective Commission to be filed with the System. In lieu of such selection of a member, the Corporation Commission may select a designee of the Commission with notification as provided in subsection (a) of this section.

*[OAR Docket #14-719; filed 7-14-14]*

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

*[OAR Docket #14-720]*

## RULEMAKING ACTION:

PERMANENT final adoption

## RULES:

Subchapter 3. Credited Service  
590:10-3-8. Actuarial cost for purchases; delinquent service cost [AMENDED]  
590:10-3-9. Purchase price payments [AMENDED]  
590:10-3-10. Incentive credit [AMENDED]  
590:10-3-14. Elected official service credit [AMENDED]  
Subchapter 7. Retirement Benefits  
590:10-7-3. Longevity and other annual lump-sum payments [AMENDED]  
590:10-7-6. Failure to submit documents; benefit estimates [AMENDED]  
590:10-7-10. Final benefit [AMENDED]  
590:10-7-14. Permanent part-time employment [AMENDED]  
Subchapter 9. Survivors and Beneficiaries.  
590:10-9-4. Probate Waivers [AMENDED]

## AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S., §§ 902, 909, 913b, 913.4, 913.5, 914, 915, 916.1, 917.

## SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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September 12, 2014

## SUPERSEDED EMERGENCY ACTIONS:

### Superseded rules:

Subchapter 7. Retirement benefits  
590:10-7-3. Longevity and other annual lump-sum payments [AMENDED]  
590:10-7-10. Final benefit [AMENDED]  
590:10-7-14. Permanent part-time employment [AMENDED]  
Subchapter 9. Survivors and Beneficiaries  
590:10-9-4. Probate waivers [AMENDED]

## Gubernatorial approval:

August 28, 2013

## Register publication:

31 Ok Reg 53

## Docket number:

13-1200

## INCORPORATIONS BY REFERENCE:

N/A

## ANALYSIS:

The amendment to 590:10-3-8 requires the member's exact age to be used when calculating the actuarial cost for service credit purchases. This rule is intended to prevent illogical results that could occur as a result of rounding.

The amendment to 590:10-3-9 requires lump sum payments for purchases of service or repayments of withdrawn service to be made no less than 30 days prior to the retirement date. This deadline is consistent with the deadline for installment payments and is intended to prevent a delayed retirement date or a delayed benefit payment.

The amendment to 590:10-3-10 clarifies inconsistencies between OPERS' rules and statutes. Elected officials are permitted to purchase incentive credit

similar to regular employees and are no longer limited to purchases to reach the Rule of 80 only. The amendment also clarifies that Hazardous Duty members can make incentive purchases, but cannot use the purchases to reach the 20 years and out requirement.

The amendment to 590:10-3-14 clarifies the statutes relating to how the benefit of an elected official, elected on or after November 1, 2011, is calculated. Statutory cross-references have been updated to be consistent with recent law changes and to remove any confusion on which compensation or salary is used in the benefit calculation.

The amendment to 590:10-7-3 is necessary to comply with Enrolled House Bill 1325, amending 74 O.S. §902 and §915, which was effective July 1, 2013. This amendment brings the rule dealing with longevity payments into compliance with the new definition of final average compensation for members whose first participating service occurs on or after July 1, 2013.

The amendment to 590:10-7-6 requires all documents necessary to retire to be received by OPERS within 6 months after the requested retirement date or the retirement will be cancelled. The member must reapply and request a new retirement date, but will not be required to meet the 60-day notice requirement. The amendment also requires members to provide all required documents to OPERS when a benefit estimate is requested.

The amendment to 590:10-7-10 is necessary to comply with the newly enacted provisions of Enrolled House Bill 1325, amending 74 O.S. §917, which became effective July 1, 2013. This amendment sets forth the process for paying a deceased member's final benefit.

The amendment to 590:10-7-14 is necessary to comply with the newly enacted provisions of Enrolled House Bill 1325, amending 74 O.S. §902 and §915, which was effective July 1, 2013. This rule sets forth how the final average compensation is calculated for permanent part-time employees. The amendment incorporates the new definition of final average compensation for those members whose first participating service occurs on or after July 1, 2013.

The amendment to 590:10-9-4 is necessary to comply with the newly enacted provisions of Enrolled House Bill 1325, amending 74 O.S. §916.1, which was effective July 1, 2013. This rule sets forth how OPERS can pay benefits or unpaid contributions to a member's heirs without the appointment of an administrator or an executor. The amendment increases the amount that can be paid without the appointment. This amendment was approved as an emergency rule.

**CONTACT PERSON:**

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., SECTIONS 250.3(5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 12, 2014:**

**SUBCHAPTER 3. CREDITED SERVICE**

**590:10-3-8. Actuarial cost for purchases; delinquent service cost**

(a) **Actuarial Costs.** Effective January 1, 1991, all purchases of service credit, including incentive credit pursuant to 74 O.S. §913.5, or employer error costs pursuant to 74 O.S. §917(7), shall be based upon the actuarial cost of the incremental projected benefits to be purchased.

(1) The actuarial cost and any tables formulated for the purpose of determining such cost, shall be based on the actuarial assumptions utilized in the actuarial valuation report for the Fiscal Year ending June 30 of the prior year.

(2) The actuarial value shall be based upon the member's age, salary, and contribution level at the time of purchase, together with the earliest age for retirement with maximum benefits and actuarially assumed salary at the

time of retirement. If purchase is not made by the due date on the billing statement, the purchase must be recalculated and the actuarial cost may increase.

(3) For purposes of determining this actuarial cost, the member's exact age in months shall be rounded up or down to the nearest birthday used in the calculation.

(4) For purposes of determining this actuarial cost, the mortality tables shall be formulated as a unisex table assuming a 50% male and a 50% female population, based upon the actuarial assumptions in paragraph (1) of this section.

(5) In the event a member who chooses to purchase service has been employed less than twelve (12) months, his salary shall be averaged based upon the most current month's payroll information.

(6) In the event that the actuarial cost is less than the contributions that would have been required by law, the member and/or the employer shall pay the actual contributions cost.

(b) **Delinquent service costs.** The cost for purchases of delinquent service credit for service of one (1) month or less which is based on employer error and which is one (1) or more years past due shall be calculated at employer and employee contributions plus ten percent (10%) simple interest per annum. If delinquent service of one (1) year or less is identified and paid for within one (1) year from the beginning service date, the cost will be calculated at employer and employee contributions only. The cost for delinquent service credit for service of more than one (1) month and which is over one (1) year past due shall be calculated at actuarial cost. The cost for any delinquent service credit for a retiree returning to work shall be calculated at employer and employee contributions plus ten percent (10%) simple interest per annum.

(c) **Remittance errors.** In the event a participating employer timely remits contributions for an individual member which are determined to be insufficient as a result of being based on an incorrect contribution rate or incorrectly-reported compensation, the employer shall be notified and pay the amount of the insufficiency plus ten percent (10%) simple interest per annum. The provisions of this paragraph shall not be applicable to employer remittances not received in a timely manner and which are subject to the provisions of paragraphs (a) and (b) of this section and 74 O.S. §920B.

**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

## Permanent Final Adoptions

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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~~ any time 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.

(d) Any payments permitted and authorized by this section or by the statutes governing the System which are elected by a member in lieu of installment payments shall be made no later than the month prior to the effective retirement date of the member.

### **590:10-3-10. Incentive credit**

(a) Pursuant to 74 O.S. §913(b) certain eligible members of the System may purchase up to two (2) full years of incentive credit at actuarial value. Incentive credit may be used as participating service or addition to age.

(b) Those eligible to purchase incentive credit include the following:

- (1) Employees who are eligible for normal or early retirement because of age or are within two (2) years of reaching normal or early retirement age;
  - (2) members who have accumulated at least 78 points toward the Rule of 80, and/or members who have accumulated at least 88 points towards the Rule of 90;
  - (3) ~~elected officials who are first elected or appointed prior to November 1, 2011, may purchase incentive credit to qualify for the Rule of 80 only;~~
  - (4) ~~elected officials who are first elected or appointed on or after November 1, 2011, who are eligible for normal or early retirement because of age or are within two (2) years of reaching normal or early retirement age; and~~
  - (5) Hazardous Duty Members may purchase incentive credit to qualify only for the Rule of 80 or 90 or for who are eligible for normal or early retirement because of age or are within two (2) years of reaching normal or early retirement age, or to qualify for the Rule of 80 or 90. Hazardous Duty Members are not eligible to purchase incentive credit to qualify for retirement pursuant to the twenty (20) years of full-time-equivalent employment requirement.
- (c) Incentive credit ~~can not~~ cannot be used as full time equivalent employment. Members must have at least four (4) years of the required six (6) years of full time equivalent employment in order to be eligible for this purchase and must accrue six (6) years of full time equivalent employment prior to retirement.
- (d) Members must be active and participating at the time of purchase or at the time of the transfer pursuant to subsection (f) of this section.
- (e) This purchase may be amortized over sixty (60) months as provided for in 590:10-3-9.
- (f) Eligible members purchasing incentive credit pursuant to this section may transfer a participating service purchase to an addition to age purchase or an addition to age purchase to a participating service purchase. This transfer applies to purchases already made by an eligible member or to purchases currently being made through installment payments pursuant to 590:10-3-9. Full or partial installment payments made pursuant to this section shall not be refundable under any circumstances. Transferring an incentive purchase to another incentive purchase pursuant to this paragraph may not result in an equal transfer.

**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, but prior to November 1, 2011, 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, and who is first elected or appointed prior to November 1, 2011, 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 subsections (a) through (c) of 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.

(e) **First elected on or after November 1, 2011.** Pursuant to 74 O.S. §913.4(A)(5) and §913.4(B), as amended in Enrolled Senate Bill 794 of the 1<sup>st</sup> Regular Session of the 53<sup>rd</sup> Legislature (2011), Section 2, Chapter 206, O.S.L. 2011, any member of the System joining prior to or on or after November 1, 2011, and who is first elected or appointed on or after November 1, 2011, shall have the contribution rate specified in 74 O.S. §919.1(1)(a) and the amount of the benefit for all elected and non-elected service credit shall be based on the provisions of 74 O.S. §915(A)(1), and §915(A)(2) if applicable, including the calculation of final average compensation pursuant to 74 O.S. §902(18).

**SUBCHAPTER 7. RETIREMENT BENEFITS**

## Permanent Final Adoptions

### 590:10-7-3. Longevity and other annual lump-sum payments

(a) ~~Only The~~ three (3) highest annual longevity payments will be added into the sum of three years of salary (thirty-six months) used in computing the final average compensation for members whose first participating service occurs before July 1, 2013. The five (5) highest annual longevity payments will be added into the sum of five years of salary (sixty months) used in computing the final average compensation for members whose first participating service occurs on or after July 1, 2013. If a retiring member is scheduled to receive a prorated longevity payment at or near the effective date of retirement, the prorated longevity payments will be used only in the amount actually paid and if it is one of the three highest longevity payments for members whose first participating service occurs before July 1, 2013, or one of the five highest longevity payments for members whose first participating service occurs on or after July 1, 2013. The final average salary shall not be reduced if the annual longevity payment causes any one month's salary to exceed the maximum monthly compensation level, provided the annual salary including longevity does not exceed the maximum compensation level.

(b) Other lump-sum annual payments that are included as compensation for retirement purposes shall be averaged over the previous twelve (12) months of salary immediately preceding the month of payment for use in computing the final average compensation. These lump-sum payments include those which are paid on an annual basis at the discretion of the employer such as performance or skill based pay adjustments.

### 590:10-7-6. Failure to submit documents; benefit estimates

(a) ~~If all of a retired member's required documents have not been received by the fifteenth day of the month in which the first two retirement benefit payments are payment is to be issued, the System will withhold payment of any benefit until all required documents have been received. If all the required documents are not received within six (6) months after the requested retirement date, the retirement shall be cancelled and no retroactive benefits shall be paid. In the event the retirement is cancelled pursuant to this section, the member shall be required to reapply for a new retirement date which shall be considered as having met the sixty (60) day notice requirement.~~

If all of a retired member's required documents have not been received by the fifteenth day of the month in which the first two retirement benefit payments are payment is to be issued, the System will withhold payment of any benefit until all required documents have been received. If all the required documents are not received within six (6) months after the requested retirement date, the retirement shall be cancelled and no retroactive benefits shall be paid. In the event the retirement is cancelled pursuant to this section, the member shall be required to reapply for a new retirement date which shall be considered as having met the sixty (60) day notice requirement.

(b) ~~In order to receive a benefit estimate, a member shall provide all the required documents necessary for the System to calculate the benefit estimate. No benefit estimate shall be processed until such documents have been received. The System shall determine which documents are necessary to calculate a benefit estimate.~~

In order to receive a benefit estimate, a member shall provide all the required documents necessary for the System to calculate the benefit estimate. No benefit estimate shall be processed until such documents have been received. The System shall determine which documents are necessary to calculate a benefit estimate.

### 590:10-7-10. Final benefit

The retirement benefit payable for the month of death of a member, joint annuitant or survivor shall be payable to said member, joint annuitant, or surviving spouse. In the event the final benefit is returned to the System or is not otherwise paid, ~~said the benefit will shall~~ be paid to the member's ~~estate named~~

beneficiary. If there is no named beneficiary or estate, the final monthly benefit payment shall be paid to the first of the following:

- (1) surviving spouse;
- (2) surviving children in equal shares;
- (3) surviving parents in equal shares;
- (4) surviving siblings in equal shares;
- (5) member's estate.

### 590:10-7-14. Permanent part-time employment

(a) For purposes of this rule, permanent part-time employment is less than full time employment and is defined as employment with a participating employer of the System in a position which is certified by the employer to require, on an on-going basis, less than forty (40) hours of work per week, or 173 hours per calendar month, or 80 hours per bi-weekly payroll period. If a question exists as to whether or not a member's employment is permanent part-time employment, written certification signed by the participating employer or an agent of the participating employer will be required to qualify a member as a permanent part-time employee for the purpose of computing the member's final average compensation under the provisions of ~~Section 915 C. of Title 74 of the Oklahoma Statutes~~ 74 O.S. §915(D).

(b) The provisions of this rule for the computation of an annualized final average compensation shall not apply to ~~retirees~~ retirees who have returned to work unless they have waived receipt of their benefit and subsequently re-retire with a recomputation of their benefit.

(c) The phrase "last ten (10) years immediately preceding termination or retirement" is defined as the last ten (10) years of participation in the System. Any breaks in participation are not counted as part of the ten (10) years.

(d) Any employee having thirty-six (36) or more months of full-time participation in the last ten (10) years of participation is not considered to be permanent part-time for the purposes of annualization of the final average compensation.

(e) ~~In~~ For members whose first participating service occurs before July 1, 2013, only the salary received during the last ten (10) years of participation in the System shall be considered in the actual calculation of the final average compensation for permanent part-time members, only salary received during the last ten (10) years of participation in the System is considered. Out of these ten (10) years, the System will use the 36 monthly entries of salary at the highest hourly rates received by the member. The gross salaries for each of the 36 months ~~are shall~~ be added together. The number of hours of work reported for each of these 36 months are shall be added together. The total salary will be divided by the total number of hours reported, multiplied by 6,240 hours plus the three (3) highest eligible longevity payments (if any), and divided by three (3) to arrive at the final average compensation.

(f) For members whose first participating service occurs on or after July 1, 2013, only the salary received during the last ten (10) years of participation in the System shall be considered in the actual calculation of the final average compensation for permanent part-time members. Out of these ten (10) years, the

System will use the 60 monthly entries of salary at the highest hourly rates received by the member. The gross salaries for each of the 60 months shall be added together. The number of hours of work reported for each of these 60 months shall be added together. The total salary will be divided by the total number of hours reported, multiplied by 10,400 hours plus the five (5) highest eligible longevity payments (if any), and divided by five (5) to arrive at the final average compensation.

**SUBCHAPTER 9. SURVIVORS AND BENEFICIARIES**

**590:10-9-4. Probate waivers**

In the event a member dies, leaving no living beneficiary or having designated his Estate as beneficiary, the System may require the judicial appointment of an administrator or executor for the member's estate prior to payment of any benefits or unpaid contributions. This requirement may be waived for payments in an amount of ~~Ten~~ Twenty Five Thousand Dollars ~~(\$10,000.00)~~ (\$25,000) or less upon presentation of the member's valid Last Will and Testament, trust documents or affidavit that a will does not exist, an Affidavit of Heirship naming all heirs to the member's estate, a Hold-Harmless Agreement signed by all heirs, a corroborating affidavit from someone other than an heir who is familiar with the deceased member, and proof of payment of all last debts of the member. These documents shall comply with the provisions of 74 O.S. ~~Section §~~916.1. If there is any question as to the validity of any document herein required, the judicial appointment shall not be waived.

*[OAR Docket #14-720; filed 7-14-14]*

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

*[OAR Docket #14-721]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 7. Contributions  
590:35-7-1. Employer contributions [AMENDED]

**AUTHORITY:**

Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S., §§ 1701, 1707.

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 26, 2013

**COMMENT PERIOD:**

January 2, 2014-February 19, 2014

**PUBLIC HEARING:**

February 20, 2014

**ADOPTION:**

February 20, 2014

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

February 25, 2014

**APPROVED BY GOVERNOR'S DECLARATION:**

Approved by Governor's declaration on June 19, 2014

**FINAL ADOPTION:**

June 19, 2014

**EFFECTIVE:**

September 12, 2014

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The amendment to 590:35-7-1 deletes language to remove any uncertainty or discretionary authority in the amount that is to be contributed to the Savings Incentive Plan ("SIP"). This amendment is necessary for plan qualification with the Internal Revenue Service.

**CONTACT PERSON:**

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., SECTIONS 250.3(5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 12, 2014:**

**SUBCHAPTER 7. CONTRIBUTIONS**

**590:35-7-1. Employer contributions**

(a) The Employer shall contribute to the Trust Fund an amount referred to as an Employer Contribution. Such contribution shall be calculated as follows: in accordance with 74 O.S. §1707, a contribution in the amount of or equivalent to Twenty-Five Dollars (\$25.00) per month, ~~or such amount as may be appropriated by the Legislature of the State of Oklahoma~~ shall be made to the Plan on behalf of each Qualified Participant, as soon as practicable after receipt.

(b) Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART"), and Section 414(u) of the Internal Revenue Code.

(1) Beginning January 1, 2009, to the extent required by Sections 3401(h) and 414(u)(12) of the Internal Revenue Code, an individual receiving differential wage payments (while the individual is performing qualified military service as defined in Chapter 43 of Title 38, United States Code) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(2) Effective January 1, 2007, death benefits payable under this Plan shall be paid in accordance with Section 401(a)(37) of the Internal Revenue Code, which provides that in the case of a Participant who dies while performing qualified military service (as defined in Section 414(u)

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of the Internal Revenue Code), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that the Plan would otherwise provide had the Participant resumed and then terminated employment with the Employer on account of death.

[*OKAR Docket #14-721; filed 7-14-14*]

## TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 1. GENERAL RULES OF THE DEPARTMENT OF PUBLIC SAFETY

[*OKAR Docket #14-649*]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 15. Sale and Auction of Surplus and Forfeited Property

595:1-15-3. Sale of surplus property [AMENDED]

595:1-15-4. Auction of surplus and forfeited property [AMENDED]

### AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 6-101 et seq.

### SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 10, 2014

### COMMENT PERIOD:

February 3, 2014 through March 10, 2014

### PUBLIC HEARING:

March 10, 2014

### ADOPTION:

March 27, 2014

### SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 28, 2014

### APPROVED BY GOVERNORS DECLARATION:

Approved by Governors declaration on June 19, 2014

### FINAL ADOPTION:

June 19, 2014

### EFFECTIVE:

September 12, 2014

### SUPERSEDED EMERGENCY ACTIONS:

N/A

### INCORPORATIONS BY REFERENCE:

N/A

### ANALYSIS:

These permanent rules update and clarify information pertaining to the Sale of Surplus Property by the Department of Public Safety, including amending the contact information and location of items addressed in the rules.

### CONTACT PERSON:

Kimberly D. Dammen, DPS Legislative Services Manager, Department of Public Safety, 3600 N. Martin Luther King Ave., PO Box 11415, Oklahoma City, OK 73136-0415. Phone: 405.425.2757. E-mail: kdammen@dps.state.ok.us

**PURSUANT TO THE ACTIONS DESCRIBED  
HEREIN, THE FOLLOWING EMERGENCY RULE IS  
CONSIDERED FINALLY ADOPTED AS SET FORTH IN  
75 O.S. §§ 250.3(5) AND 308(E), WITH AN EFFECTIVE  
DATE OF SEPTEMBER 12, 2014:**

## SUBCHAPTER 15. SALE AND AUCTION OF SURPLUS AND FORFEITED PROPERTY

### 595:1-15-3. Sale of surplus property

(a) **Limitation.** The Department shall offer for sale and actually sell surplus property only to an agency. As used in this section, "sale" means direct sale to an agency, not as the result of a purchase at an auction.

(b) **Obtaining information regarding surplus property for sale.**

(1) **Availability of surplus property.** Any agency may contact the Director regarding the availability of surplus property for sale. The Director will provide a list of surplus property and its location that is available for sale at that time.

(2) **Contact.** The Director may be contacted by:

(A) Telephone: (405) 425-2122

(B) Mail: Department of Public Safety, Director of Transportation, P.O. Box 11415, Oklahoma City, OK 73136-0415

(C) Fax: (405)425-2304

(D) E-mail: dblackle@dps.state.ok.us

(3) **Examining surplus property.** If surplus property is available, the agency may visit the ~~Department, or another~~ location as indicated by the Department, during regular business hours (8am to 4:40pm) to examine and, if desired, purchase surplus property.

~~(4) **Location.** Surplus property, when available, is located at the Garage at the headquarters of the Department, 2300 NE 36th Street, Oklahoma City, OK unless another location has been indicated by the Department. The Garage is located on the south side of NE 36th Street between Interstate 35 and North M.L. King Avenue, approximately one half block east of North M.L. King Avenue.~~

(c) **Pricing.**

(1) **Vehicles.** Prices of surplus vehicles are based upon ~~the guidelines from the most current edition of the National Automobile Dealers Association Official Used Car Guide, the current market value of the vehicle.~~

(2) **Equipment.** Prices of surplus equipment are based upon ~~twenty five percent (25%) to fifty percent (50%) depreciation of the original price of the equipment or upon the current market value of the equipment, whichever is higher.~~

(d) **Payment.** Payment shall be made to the Department prior to delivery of the surplus property to the purchasing agency and shall be accepted only in one of the following methods:

(1) Agency purchase order. The purchase order shall be on a form adopted by the purchasing agency and signed by an agency employee authorized to do so.

(2) Agency check, claim, or warrant.

(e) **Terms of sale.**

(1) Surplus property is sold "as is -where is" with no warranty implied or given by the Department.

(2) Surplus property which has been purchased can not be returned to the Department.

(3) If requested, the Department will provide the purchasing agency with an invoice. If the surplus property is or includes a vehicle, the Department will also provide the title to the vehicle and a letter which will give authority