

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

SUBCHAPTER 1. GENERAL PROVISIONS

590:10-1-7. Non-state agency contributions

Any participating county, county hospital, city or town, conservation district, or circuit engineering district or trust shall contribute to the System all required retirement contributions due on a monthly basis. All required contributions and supporting documentation must be received by the System on or before the fifteenth (15th) day of the month following the month for which the contributions are due. Any non-state agency employer who remits contributions later than ~~30~~ thirty (30) days following the due date, will be assessed a late charge of ~~4.5%~~ three percent (3%). The late charge will be calculated on the unpaid balance and will compound monthly until paid.

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 age shall be rounded up or down to the nearest birthday.

(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.

590:10-3-10. 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.

~~(1) Incentive credit may be used as participating service or addition to age.~~

~~(2) Members are eligible for purchase of up to 2 years of credit (24 months).~~

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

~~(3)~~(1) Employees who are eligible for normal or early retirement because of age or are within ~~2~~ 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 ~~are eligible for this purchase, except that:~~

(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 early retirement.

~~(4)~~(c) Incentive credit can not be used as full time equivalent employment. Members must have at least ~~4~~ four (4) years of the required ~~6~~ six (6) years of full time equivalent employment in order to be eligible for this purchase and must accrue ~~6~~ six (6) years of full time equivalent employment prior to retirement.

~~(5)~~(d) Members must be active and participating at the time of purchase or at the time of the transfer pursuant to ~~paragraph (7)~~ subsection (f) of this section.

~~(6)~~(e) This purchase may be amortized over sixty (60) months as provided for in 590:10-3-9.

~~(7)~~(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.

590:10-3-11. Termination credit

(a) Pursuant to 74 O. S. §913c, certain eligible members of the System may purchase up to three (3) full years of termination credit.

~~(1)~~(b) Following official notice from a participating employer of an approved reduction-in-force on or after July 1, 1998, and of ~~the~~ those employees subject to ~~said~~ the reduction-in-force, the System will communicate detailed instructions about the purchase of termination credit to those members affected.

~~(2)~~(c) Purchase of termination credit allows an eligible member to constructively participate as if still employed by a participating employer until reaching eligibility for a normal retirement either at age 62 or by achieving 80/90 points date as defined in 74 O.S. §902(24). The purchase of termination credit represents the amount of service which would have accrued through the member's normal retirement date had they not been terminated due to a reduction-in-force and will allow an eligible member to preserve the same normal retirement date as he or she would have had if the member's position had not been terminated by a reduction-in-force.

~~(3)~~(d) Members must have at least six (6) years of full-time equivalent employment with a participating employer in order to be eligible to purchase termination credit.

~~(4)~~(e) Members who ~~are between the ages of 59 and 62 (those members who are within 3~~ three (3) years of achieving eligibility for a normal retirement at age 62 date based on age as set forth in 74 O.S. §902(24), or who have accumulated at least 74 points toward the Rule of 80 or 84 points toward the Rule of 90 (those members who are within ~~6~~ six (6) years of achieving eligibility for normal retirement under the 80/90 point provisions), are eligible to purchase termination credit if they are subject to a reduction-in-force.

~~(5)~~(f) Members cannot purchase both termination credit and incentive credit.

~~(6)~~(g) Members may purchase termination credit not to exceed the amount of years and months required to reach normal retirement. The maximum amount of termination credit which may be purchased is ~~3~~ three (3) years of service.

~~(7)~~(h) The cost to purchase termination credit will be an amount equal to the employee and employer contributions which would have been paid to the System based upon the last full month of compensation.

~~(8)~~(i) To purchase termination credit, the member must file a written election of intent within six (6) months from the date the member is terminated. Payment in full must be received by the System within sixty (60) days of the filing of the election to purchase.

~~(9)~~(j) Failure to make payment in full by the due date, returning to employment with a participating employer or retirement by the member or surviving spouse at any time prior to the normal retirement date will void the purchase of termination credit. The System will return the purchase price tendered.

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 2nd Regular Session of the 51st 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 2nd Regular Session of the 51st 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.~~

(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 1st Regular Session of the 53rd 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).

SUBCHAPTER 7. RETIREMENT BENEFITS

590:10-7-4. Early retirement factor

The monthly benefit to be paid under early retirement shall be based on the actual age in years and months the retirement member has attained on the date retirement benefits are to begin. The reduction factor is based on a level interpolation, between ages 55 and 62 for members whose first participating service occurs before November 1, 2011, and between ages 60 and 65 for members whose first participating service occurs on or after November 1, 2011.

590:10-7-9. Fractional year computations

(a) ~~Title~~ **Rounding of fractional year.** Pursuant to 74 O.S. §913(C) ~~provides that~~, 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 ~~said~~ 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) ~~Title~~ **Correctional and probation and parole officers.** Pursuant to 74 O.S. §915(A) ~~provides for~~, the computation of retirement benefits of Department of Corrections Correctional and ~~Pardon~~ Probation and Parole Officers ~~at is~~ 2.25% for certain credit prior to July 1, 1990, and 2.5% for certain credit after July 1, 1990, ~~and at~~ 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.

(c) **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.

(d) **Elected officials.**

(1) If first elected or appointed prior to November 1, 2011, elected ~~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 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).

(e) **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.

590:10-7-16. Rollovers

(a) This section applies to the Oklahoma Public Employees Retirement System and to the Uniform Retirement System for Justices and Judges.

(b) A distributee may elect to have eligible rollover distributions paid in a direct rollover to an eligible retirement plan the distributee specifies, pursuant to Section 401(a)(31) of the federal Internal Revenue Code.

(c) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; the portion of any distribution that is not includible in gross income; and any other distribution that is reasonably expected to total less than Two Hundred Dollars (\$200.00) during the year. Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code.

(d) Effective January 1, 2002, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only:

(1) To an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code or to a qualified defined contribution plan described in Section 401(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible;

(2) on or after January 1, 2007, to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code or to an annuity contract described in Section 403(b) of the Internal Revenue Code that agrees to separately account for

amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or

(3) on or after January 1, 2008, to a Roth IRA described in Section 408A of the Internal Revenue Code.

(e) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(1) An individual retirement account described in Section 408(a) of the Internal Revenue Code;

(2) an individual retirement annuity described in Section 408(b) of the Internal Revenue Code;

(3) an annuity plan described in Section 403(a) of the Internal Revenue Code;

(4) a qualified trust described in Section 401(a) of the Internal Revenue Code;

(5) effective January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code;

(6) effective January 1, 2002, a plan eligible under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system; or

(7) effective January 1, 2008, a Roth IRA described in Section 408A of the Internal Revenue Code.

(f) "Distributee" means an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code. Effective January 1, 2007, a distributee further includes a non-spouse beneficiary who is a designated beneficiary as defined by Section 401(a)(9)(E) of the Internal Revenue Code. However, a non-spouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purposes of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

(g) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

590:10-7-22. Federal qualified military service rights

(a) **Additional benefits if provided by Plan.** Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code), to the extent required by Section 401(a)(37) of the Internal Revenue Code, survivors of a member in a State or local retirement or pension system, are entitled to any additional benefits that the system would otherwise provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed.

(b) **Differential wage payments.** Beginning January 1, 2009, to the extent required by Sections 3401(h) and 414(u)(~~212~~) 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.

SUBCHAPTER 8. DEPARTMENT OF CORRECTIONS BENEFITS

590:10-8-5. Normal retirement date for Post-Hazardous Duty Members

In addition to a normal retirement at age 62, under Rule of 80 or under Rule of 90 date as defined in 74 O.S. §902(24), Post-Hazardous Duty Members who are employed by the Department of Corrections at the time of retirement are eligible to retire after completion of at least twenty (20) years of full-time-equivalent employment as provided in 590:10-3-6 of these rules; provided, the required higher contribution for Hazardous Duty Members is paid or the member was employed, pursuant to 74 O.S. §915(A)(8), as a correctional officer or probation and parole officer at the Department of Corrections.

SUBCHAPTER 9. SURVIVORS AND BENEFICIARIES

590:10-9-1. Survivors' benefits

(a) If an active or retired elected official with a minimum of six (6) years of participating service, who was first elected or appointed before November 1, 2011, or an active or retired elected official with a minimum of eight (8) years of participating service who was first elected or appointed on or after November 1, 2011, dies, the surviving spouse is eligible to receive one half (1/2) of the elected official's benefit provided the elected official had met the service requirements for retirement. If a retired elected member selected an Option to apply to his/her service, the joint annuitant receives the Option benefit instead of the one half (1/2) benefit to the spouse.

(b) At the death of a member who is eligible to retire pursuant to law but is not actually retired, or is eligible to vest or had elected a vested benefit, the surviving spouse shall be entitled to receive the appropriate Option benefit as provided by law beginning at the date the deceased member would have become eligible to receive such benefits had the member survived. The System may withhold benefits to the surviving spouse until the necessary documentation is received and verified. The benefits payable shall accrue from the first day of the month following the death of the member if the deceased member met the requirements for an early or normal retirement.