SENATE FLOOR VERSION
February 20, 2017
AS AMENDED

SENATE BILL NO. 428
By: Smalley

An Act relating to teacher retirement; amending 70 O.S. 2011, Section 17-116.10, as amended by Section 4, Chapter 101, O.S.L. 2013 (70 O.S. Supp. 2016, Section 17-116.10), which relates to post-retirement employment; conforming language; excluding certain employees from retirement classification; allowing certain retired teachers to return at full pay; providing an effective date; and declaring an emergency.

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

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

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

1. A retired member is not eligible to be employed by the public schools of Oklahoma, in any capacity, for sixty (60) calendar days between the retiree's last day of pre-retirement public-
education employment and any post-retirement public-education employment. For purposes of this section, the term "last day of pre-retirement employment" shall mean the last day the employee is required to be physically present on the job to complete the terms of the employment contract or agreement. An employee on paid leave is still considered to be employed for purposes of this section. Employment under any conditions during this time, volunteer services for the purpose of obtaining a paid position at a later date, or payment at a later time for services performed during this time period shall cause the forfeiture of all retirement benefits received during the period;

2. Unless otherwise provided in paragraph 3 of this subsection, earnings from the public schools may not exceed one-half (1/2) of the member's final average salary used in computing retirement benefits, or the Earnings Limitation for employees allowed by the Social Security Administration, whichever is less. For retired members under the age of sixty-two (62) years, the limit on allowed earnings from the public schools of Oklahoma for employment for the performance of duties ordinarily performed by classified or nonclassified personnel shall be the lesser of Fifteen Thousand Dollars ($15,000.00) or one-half (1/2) of the member's final average salary used in computing retirement benefits unless the earnings limitation allowed by the Social Security Administration would be greater than Fifteen Thousand Dollars ($15,000.00). For retired
members sixty-two (62) years of age or older the limit on allowed
earnings from the public schools of Oklahoma for the performance of
duties ordinarily performed by classified or nonclassified personnel
shall be the lesser of Thirty Thousand Dollars ($30,000.00) or one-half (1/2) of the member's final average salary used in computing
retirement benefits. For purposes of this paragraph, the following
shall apply:

a. earnings shall mean "regular annual compensation" as
defined in paragraph (25) of Section 17-101 of this
title, and shall include any payment by a public
school for services rendered by a retired member who
is employed for any purpose whatsoever. Supplemental
retirement payments paid by a former public school
employer pursuant to subsection 9 of Section 17-105 of
this title or other state law shall not be considered
as earnings,

b. the Earnings Limitation for employees allowed by the
Social Security Administration to workers between the
age of sixty-two (62) years and sixty-five (65) years
shall apply to retired members below the age of sixty-
two (62) years,

c. the limit on allowed earnings from the public schools
shall be automatically adjusted effective the first
day of January of each year to reflect the current
Earnings Limitation for employees as determined from time to time by the Social Security Administration,
d. the earnings limit for the calendar year in which a member retires shall be one-twelfth (1/12) of the annual limit multiplied by the number of months the member is eligible to work and receive payments from the public schools of Oklahoma,
e. earnings in excess of the maximum limit on allowed earnings from public schools of Oklahoma shall result in a loss of future retirement benefits for the year the post-retirement employment was performed of One Dollar ($1.00) for each One Dollar ($1.00) earned over the maximum allowed earnings amount,
f. for those members age seventy (70) years and over, the earnings in excess of the maximum limit allowed earnings from public schools of Oklahoma shall be one-half (1/2) the member's final average salary used in computing retirement benefits. However, any retired member receiving benefits from the Retirement System who reached age seventy (70) years prior to July 1, 1991, shall not be restricted by the earnings limits pursuant to this subparagraph until January 1, 1994. To qualify for the provisions of this subparagraph, the member must be employed less than one-half (1/2)
time compared to other full-time employees in similar positions;

3. Notwithstanding paragraph 2 of this subsection, a retired classified or nonclassified member who has been retired for thirty-six (36) or more months and who is employed by a public school to perform duties ordinarily performed by classified or nonclassified personnel shall be able to receive annualized earnings from the public school with no reduction in retirement benefits regardless of the amount of annualized earnings. For a period of three (3) years beginning July 1, 2017, members who retired as active classroom teachers, who have been retired and receiving a benefit for at least one year, and who have not been employed full-time by any public school during that one-year period, shall be eligible to be re-employed as an active classroom teacher in common or career tech school districts, with no limitations on earnings. The one-year period starts with the retiree's last day of preretirement public education employment. Members returning under this section shall not be subject to any earning limitations following the end of the three-year period described in this paragraph; and

4. A member shall be considered to be employed by a school district to perform the duties ordinarily performed by classified or nonclassified personnel if the member is hired by the school district in the member's individual capacity to perform the duties or if the member performs the duties through employment with a
proprietorship, partnership, corporation, limited liability company or partnership, or any other business structure that has agreed or contracted to provide the services to the school district.

B. A public school district that employs a retired member shall be required to make contributions to the System for the retired member in an amount as required in Section 17-108.1 and in paragraph 3 of subsection B of Section 17-116.2 of this title.

C. For purposes of this section, post-retirement employment of less than one thousand (1,000) hours per year with the Governor, the State Senate, the House of Representatives or the Legislative Service Bureau shall not be considered as post-retirement employment with a public school of Oklahoma.

D. The Board of Trustees of the Teachers' Retirement System of Oklahoma shall promulgate such rules as are necessary to implement the provisions of this section.

E. A member who has entered into post-retirement employment with a participating employer of the Teachers' Retirement System of Oklahoma must fully comply with all the provisions of the rules promulgated by the Board of Trustees pursuant to this section in order to continue receiving his or her monthly retirement benefit.

SECTION 2. This act shall become effective July 1, 2017.

SECTION 3. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby
declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
February 20, 2017 - DO PASS AS AMENDED