

An Act

ENROLLED SENATE
BILL NO. 423

By: Quinn of the Senate

and

McDaniel of the House

An Act relating to alternative retirement plans; amending 70 O.S. 2011, Sections 17-202, 17-203, 17-204, 17-206 and 17-208, which relate to the Alternate Retirement Plan for Comprehensive Universities Act; modifying definitions; modifying references to certain election by employees; modifying time period within which election required; modifying procedures with respect to termination of participation; modifying provisions related to transfer of contributions; modifying provisions related to the treatment of certain service credit in the Teachers' Retirement System of Oklahoma; and providing an effective date.

SUBJECT: Alternative retirement plans

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 17-202, is amended to read as follows:

Section 17-202. The following words and phrases as used in this act shall have the following meanings unless a different meaning is clearly required by the context:

1. "Participating institution" means only the entities that comprise a comprehensive university pursuant to Section 17-101 of ~~Title 70 of the Oklahoma Statutes~~ this title and which:

- a. maintain an alternate retirement plan pursuant to the provisions of this act, and
- b. employ eligible employees;

2. "Alternate retirement plan" means any employee retirement plan that is created solely to provide benefits for eligible employees ~~and electing employees~~, as defined in this section, for periods of service on or after July 1, 2004. Such retirement plan shall be a plan meeting the requirements of Section 401(a) of the Internal Revenue Code of 1986, as amended, operated pursuant to the provisions of this act;

3. "Board of regents" means the board or body designated by the Oklahoma Constitution or by ~~Title 70 of the Oklahoma Statutes~~ this title as the board of regents or governing board of a comprehensive university that is a participating institution;

4. "Eligible employee" means any employee of a participating institution who (a) was initially appointed or hired after June 30, 2004, and (b) meets the eligibility requirements of the alternate retirement plan of the participating institution that employs the eligible employee. However, the term "eligible employee" does not include a person whose employment is incidental to his or her educational program or whose employment is not continuous. Such eligible employees shall be eligible to participate in the alternate retirement plan if they make a one-time irrevocable written election pursuant to this act; and

5. ~~"Electing employee" means an employee of a participating institution hired prior to July 1, 2004, who is a member of the Teachers' Retirement System of Oklahoma and who makes a one-time irrevocable written election pursuant to this act to cease to make employee contributions to the Teachers' Retirement System of Oklahoma and to participate in an alternate retirement plan established by such employee's participating institution pursuant to this act; and~~

~~6.~~ "One-time irrevocable written election" means a one-time election made pursuant to this act by an eligible employee ~~or electing employee~~ that shall be in writing and irrevocable and shall cover all future service with a participating institution regardless of a break in service.

SECTION 2. AMENDATORY 70 O.S. 2011, Section 17-203, is amended to read as follows:

Section 17-203. Alternate retirement plans for eligible employees ~~and electing employees~~ are hereby authorized at participating institutions in lieu of the retirement plan offered by the Teachers' Retirement System of Oklahoma. Alternate retirement plans, shall, for eligible employees ~~and electing employees~~, provide retirement and death benefits to such employees through the purchase of annuity contracts, qualified retirement trusts or custodial accounts, fixed or variable in nature, or a combination thereof, at the option of the participating institution.

SECTION 3. AMENDATORY 70 O.S. 2011, Section 17-204, is amended to read as follows:

Section 17-204. A. On or before June 30, 2005, the Board of Regents of a participating institution may establish an alternate retirement plan pursuant to the provisions of this act, for the entities under the jurisdiction of such Board of Regents, for eligible employees ~~and electing employees~~ in lieu of membership in the Teachers' Retirement System of Oklahoma. The Board of Regents of the applicable participating institution shall determine the terms and conditions of the alternate retirement plan including, by example, terms for eligibility, contributions, vesting and the amount of benefits, and provide for the administration of such an alternate retirement plan and perform or authorize the performance of such functions as may be necessary for such purpose in accordance with this act.

B. The Board of Regents shall select the company or companies that shall administer the qualified retirement trust, custodial accounts or from which annuity contracts are to be purchased under the alternate retirement plan and shall approve the form and content of all agreements governing such trusts, accounts or contracts.

C. The Board of Regents of the participating institutions may delegate certain responsibilities for administering the alternate retirement plan with respect to each institution's own employees.

SECTION 4. AMENDATORY 70 O.S. 2011, Section 17-206, is amended to read as follows:

Section 17-206. A. An eligible employee shall have ~~ninety (90)~~ thirty (30) days from such eligible employee's initial date of hire or the date the alternate retirement plan is adopted by the participating institution, whichever is later, to make a one-time irrevocable written election to participate in the alternate retirement plan or the Teachers' Retirement System of Oklahoma. If an eligible employee fails to make an election within the ~~ninety-day~~ thirty-day period such eligible employee shall participate in the Teachers' Retirement System of Oklahoma. If an eligible employee makes the election to participate in the alternate retirement plan such eligible employee shall not participate in the Teachers' Retirement System of Oklahoma nor make employee contributions to the Teachers' Retirement System of Oklahoma and the participating institution shall not make employer contributions to the Teachers' Retirement System of Oklahoma except as otherwise required by ~~this act~~ Section 17-201 et seq. of this title. If an eligible employee elects to participate in the Teachers' Retirement System of Oklahoma, then the eligible employee shall make employee contributions to the Teachers' Retirement System of Oklahoma and the participating institution shall pay the employer contributions of such eligible employee to the Teachers' Retirement System of Oklahoma for the month that the eligible employee was hired through the month that the election is made and as long as the eligible employee participates in the Teachers' Retirement System of Oklahoma.

B. An eligible employee who elects to participate in the alternate retirement plan shall be ineligible for participation in the Teachers' Retirement System of Oklahoma. Ineligibility to participate in the Teachers' Retirement System of Oklahoma shall continue so long as such eligible employee remains employed by a participating institution. If such eligible employee assumes a different position, which is governed by a state retirement system other than the alternate retirement plan authorized in ~~this act~~ Section 17-201 et seq. of this title, the eligible employee shall be

subject to the retirement system rules applicable to that new position. However, such eligible employee shall not be eligible for service credit in the Teachers' Retirement System of Oklahoma for service performed while participating in an alternate retirement plan.

~~C. An electing employee who desires to cease to participate in the Teachers' Retirement System of Oklahoma shall make a one-time irrevocable written election to cease making employee contributions to the Teachers' Retirement System of Oklahoma and participate in the alternate retirement plan. Such election shall be made within one (1) year following the adoption of the alternate retirement plan or receipt of official written notice that the provisions of this act satisfy the applicable requirements of the Internal Revenue Code of 1986, as amended from time to time, whichever is later. If the electing employee makes the election pursuant to this subsection, then the participating institution shall notify the Teachers' Retirement System of Oklahoma of such election within thirty (30) days of receipt of the election. Upon the election to cease membership in the Teachers' Retirement System of Oklahoma, employer and employee contributions shall cease as of the first day of the month coinciding with or first following the receipt of the election from the electing employee by the participating institution.~~

~~D. Subject to receipt of official written notice that the provisions of this act satisfy the applicable requirements of the Internal Revenue Code of 1986, as amended from time to time, as provided in subsection C of this section, if the electing employee is not vested with the Teachers' Retirement System of Oklahoma at the time the election is made, the Teachers' Retirement System of Oklahoma shall transfer all of the electing employee's employee contributions (but not employer contributions) at the time of such election, and attributable interest, pursuant to Section 17-105 of Title 70 of the Oklahoma Statutes, to the alternate retirement plan in an amount equal to what the electing employee would have received had the electing employee withdrawn his or her contributions at the date of such election. A transfer of employee contributions and interest pursuant to this subsection shall only be made upon receipt of official written notice that such transfer satisfies the applicable requirements of the Internal Revenue Code of 1986, as amended from time to time. Upon transfer of such employee contributions and interest to the alternate retirement plan, the~~

~~electing employee shall have all service credit, rights, and benefits in the Teachers' Retirement System of Oklahoma canceled. In the event the Internal Revenue Service does not approve the transfer of contributions and interest to the alternate retirement plan as provided in this subsection, such employee contributions and interest shall be refunded to such electing employee upon termination, retirement, death or disability pursuant to Section 17-101 et seq. of Title 70 of the Oklahoma Statutes and the rules of the Teachers' Retirement System of Oklahoma.~~

~~E. In the event an electing employee is vested with the Teachers' Retirement System of Oklahoma on the date that the election is made, such individual shall have the option to either (a) leave all of his or her employee contributions in the Teachers' Retirement System of Oklahoma, or (b) transfer all of the electing employee's employee contributions (but not employer contributions) at the time of such election, and attributable interest, pursuant to Section 17-105 of Title 70 of the Oklahoma Statutes, to the alternate retirement plan in an amount equal to what the electing employee would have received had the electing employee withdrawn his or her contributions at the date of such election. A transfer of employee contributions and interest pursuant to this subsection shall only be made upon receipt of official written notice that such transfer satisfies the applicable requirements of the Internal Revenue Code of 1986, as amended from time to time. Upon transfer of such employee contributions and interest to the alternate retirement plan, all of the electing employee's service credit, rights, and benefits in the Teachers' Retirement System of Oklahoma shall be canceled. However, such electing employee who leaves all of his or her employee contributions in the Teachers' Retirement System of Oklahoma shall not be eligible to retire from the Teachers' Retirement System of Oklahoma while employed by a participating institution. In the event the Internal Revenue Service does not approve the transfer of contributions and interest to the alternate retirement plan as provided in this subsection, such employee contributions and interest shall be refunded to such electing employee upon termination, retirement, death or disability pursuant to Section 17-101 et seq. of Title 70 of the Oklahoma Statutes and the rules of the Teachers' Retirement System of Oklahoma.~~

~~F. An electing employee shall not be eligible to obtain service credit in the Teachers' Retirement System of Oklahoma for service performed while participating in an alternate retirement plan as provided in this act, on or after July 1, 2004, even if the employee later returns to employment in a position governed by the Teachers' Retirement System of Oklahoma. The Boards of Regents of the participating institutions and the Teachers' Retirement System of Oklahoma shall promulgate any rules necessary to implement the provisions of this section.~~

SECTION 5. AMENDATORY 70 O.S. 2011, Section 17-208, is amended to read as follows:

Section 17-208. All eligible employees ~~and electing employees~~ participating in the alternate retirement plan shall acknowledge in writing that benefits payable pursuant to such alternate retirement plan are not the obligations of the State of Oklahoma or the Teachers' Retirement System of Oklahoma. The alternate retirement plan shall be solely responsible for payment of retirement, death or other benefits earned under the alternate retirement plan and such benefits shall be paid to the participants or their beneficiaries pursuant to the terms of the alternate retirement plan.

SECTION 6. This act shall become effective November 1, 2017.

Passed the Senate the 9th day of May, 2017.

Presiding Officer of the Senate

Passed the House of Representatives the 24th day of April, 2017.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____