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Senate Bill 683 (Optional Personnel Membership in TRS) Summary & Frequently Asked Questions¹

Starting July 1, 2021, SB 683 changed when an optional employee is eligible to participate and made the election regarding optional participation permanent. Now, nonclassified optional employees² are eligible for participation in TRS upon their initial employment or eligibility, whichever is later, with a TRS employer. SB683 reflects current IRS regulations. As a result, optional personnel are no longer permitted to “opt in” and “opt out” of participation in TRS while remaining employed at a TRS employer. Instead, all optional personnel must make an **irrevocable election** regarding TRS participation. This election will follow them throughout optional employment with any TRS employer.

Optional personnel must elect whether to participate in TRS within 30 days of their initial date of employment or initial eligibility for optional membership in TRS, whichever is later. Optional personnel should **only** complete and submit a TRS Participation Opt-Out Form if they wish to **opt out** of TRS participation.

- Optional membership is still only available to individuals regularly employed for twenty (20) hours or more per week who are eligible for membership (for example, temporary, seasonal, and adjunct supplemental employees are *not eligible* for membership in TRS).

If an election to opt out is not timely completed, the employee will be deemed to participate in TRS, and contributions will be due on that employee's compensation. TRS encourages employers to diligently ensure their employees have timely submitted their elections. Employers must keep a copy of the employee's election form in his or her personnel file, in addition to submitting a copy of the election to TRS.

IMPORTANT:

- SB 683 is not applicable to classified employees who have optional employment duties at the same or a different TRS employer, and these employees should not submit an election. Classified employees are mandatory members of TRS, and contributions are due on all of their eligible compensation, including optional employment.
- Similarly, anyone who has previously been a TRS mandatory member due to prior classified employment with a TRS employer will be a TRS member for **any** future eligible employment

¹ This information is general in nature and is subject to change as additional laws and regulations are adopted. If there is a conflict between this document and the plan, the plan documents will take precedence.

² “Nonclassified optional personnel” means any person regularly employed by the public educational institutions in Oklahoma for twenty (20) hours or more per week. Effective July 1, 2022, “nonclassified optional personnel” also includes adjunct teachers employed pursuant to rules promulgated by the State Board of Education under OKLA. STAT. tit. 70, § 6-122.3, who may be eligible for optional membership in TRS provided they are employed for twenty (20) hours or more per week. See Okla. Admin. Code 715:10-1-4. “Nonclassified optional personnel” does not include (1) employees who work less than 20 hours per week, (2) substitute, irregular, seasonal, graduate assistant, fellowship recipient adjunct supplemental (except adjunct teachers as described above), or temporary employees, or (3) any employees excluded from TRS eligibility under TRS rules.



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in an optional position. No election form should be executed, and contributions are due on this employment.

SB 683 Frequently Asked Questions

1. I am currently employed as an optional employee. I participated in TRS for two years at my current employer prior to July 1, 2021. I opted out of participation on my election form. Can I withdraw the employee contributions I made to TRS?

Generally, no. Members may only withdraw contributions from TRS under certain qualifying circumstances (like terminating employment). Optional employees may visit the [TRS website](#) or contact TRS to determine if they meet the criteria for withdrawing contributions.
2. If an optional employee elects *not to participate* in TRS at one school district, if they later are employed at another district as an optional employee, can they choose to participate then?

No. If an optional employee elects not to participate in TRS, they cannot later opt into TRS participation at another employer. The employee is bound by that prior election unless the employee becomes a classified mandatory employee (see question 4).
3. If an optional employee elects *to participate* in TRS at one school district, if they are later employed at another district as an optional employee, can they choose not to participate then?

No. If an optional employee elects to participate in TRS at one employer, they cannot later opt out of participation in TRS for a subsequent participating employer.
4. If an optional employee elects not to participate in TRS then later is hired as a classified employee, will TRS contributions be owed on their classified employment?

Yes. Classified employees are mandatory members of TRS for which contributions must be paid. An optional employee who later becomes a classified employee will be required to participate in TRS.
5. I have a classified employee who is moving to an optional employment position. Are they required to participate in TRS?

Yes. This member is required to participate in TRS while employed at any TRS participating employer in an eligible optional position due to their previous



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participation in TRS as a classified member. Contributions are owed on all eligible compensation.

6. What if I do not complete an opt-out form within 30 days as required?

You will be deemed to irrevocably participate in TRS, and employer and employee contributions must be paid on all regular annual compensation.

7. Our District pays the employee contribution as a fringe benefit. Since we will pay the TRS contributions for optional employees as a fringe benefit, do we need to give optional employees the choice to complete the TRS Participation Opt-Out Form?

Yes. Because the optional employee's election will follow them throughout their career (including to any district that does not pay TRS contributions as a fringe benefit), employers must present election forms to all of their optional employees. If the employee does not timely complete and submit the opt-out form, the employee will be deemed a member of TRS.

8. When does TRS need to receive the forms for employees?

As soon as possible after completion. If an employee wishes to opt out of TRS, they must complete their election within 30 days of their initial hire as optional employees or, if not eligible upon initial hire, within 30 days of their initial eligibility for optional membership in TRS. If the employee fails to timely complete this form, they will be deemed to participate in TRS. Employers should submit that election form to TRS as soon as possible following receipt, as it affects contributions due to TRS.

9. Can Districts get an extension on their optional employees making an election?

Unfortunately, no. Districts will not be able to receive an extension on optional employees making an election to participate. IRS regulations significantly limit the amount of time that an employee has to make an election into a retirement system and TRS must comply with those regulations.

10. We have an employee who retired from TRS and is receiving retirement benefits. Do they need to fill out this form?

If you have an employee who is working post-retirement from TRS and currently receiving benefits, they do not need to complete this form as they are already in the plan. However, as a reminder, the District is required to (and should continue to) pay



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contributions on this member's eligible compensation. This contribution rate is 16.5% of eligible compensation and is due solely from the District— not the member. No contributions are due from the member on post-retirement earnings.

11. Can an employer require an eligible optional employee to opt out of participation in TRS, even if the member wishes to be a member of the system?

No. Employers cannot require eligible optional employees to opt out of TRS.

12. What date is considered the "hire date" or "eligibility date" for the purposes of the 30-day election window? Is it the day their contract is approved by the Board, their first day to report on the job, or some other date?

The hire date for the employee is the day the employee's actual employment commences. It will be the date the school uses to start paying the employee and providing benefits. The 30-day election period begins that day. In the case where an employee is initially hired in a position ineligible for optional TRS membership and they later become eligible, the 30-day election period starts on the day the employee begins eligible employment.

13. Can optional employees who elect to participate in TRS purchase previous time they have worked in Oklahoma public education?

It depends. Optional employees may purchase prior service credit for years worked as an optional employee, but in order to purchase this service credit, optional employees cannot have previously made contributions to TRS AND either (1) withdrawn their account or (2) ceased making contributions while remaining employed.

14. Do employees need to turn in an election form if they want to participate in TRS?

No. Effective January 1, 2023, TRS amended its election form. Now, the form is required only to opt out of TRS. If an employee wishes to participate in TRS, no election form is required for that employee.

SB 683 Elections and Alternative Retirement Programs

State statute permits comprehensive universities (defined in 70 O.S. §17-101 as the University of Oklahoma and Oklahoma State University) to maintain an Alternative Retirement Program (ARP) for eligible employees in lieu of participation in TRS. These comprehensive universities (ARP employers) are in a different employer group than all other employers that participate in TRS (Traditional TRS



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Employers).

Since ARP employers are in a separate group from other TRS employers, employee elections do not carry over between these two employment groups (ARP employers and Traditional TRS Employers). Therefore, employee elections made at an ARP employer will not carry over to employment with a Traditional TRS employer. Equally, elections made at a Traditional TRS employer will not carry over to later employment with an ARP employer.

Examples are provided on how elections work between these employment groups:

1. An optional employee at a K-12 school district opts to participate with TRS. The employee later changes to employment at an ARP university that is eligible for participation in TRS. Does the employee get to elect between participating in TRS or the university's ARP?

Yes. The employee's prior election with the K-12 school district would not govern or affect their participation options with the ARP employer. The optional employee is given a new election regarding TRS participation at the ARP university.

- **If the employee is eligible to participate in the ARP, the employee would first elect whether to participate generally in TRS or the ARP. Then, if the employee selects to be governed by the TRS plan, as an optional employee, the employee must also choose under SB 683 whether to participate in TRS. If the employee chooses to opt out of TRS, they must timely complete and submit the opt-out form; they will not be permitted to participate in TRS or in the ARP.**
- **If the employee is not eligible to participate in the ARP, but is eligible to participate in TRS, the employee must only make a new election under SB 683 regarding participation in TRS. If the employee chooses to opt out of TRS, they must timely complete and submit the opt-out form.**

2. An optional university employee at an ARP university elects to participate in the university's ARP. The employee is later employed as an optional employee by a technology center – this is the employee's first time to be employed with any Traditional TRS employer. Can the employee now elect to participate in TRS since ARP is no longer available for them?

Yes. The optional employee is given a new election regarding TRS participation because they are now moving to a Traditional TRS employer. As an optional employee, the employee must make an election under SB 683 to participate in TRS or to opt out of participation. If the employee chooses to opt out of TRS, they must complete and timely



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submit the opt-out form. The employee's prior election with the ARP employer would not affect their current options with the Traditional TRS employer.

- **If the tech center employment was NOT the employee's first time to be employed with a Traditional TRS employer, the answer can change. If the employee had prior classified employment for any Traditional TRS employer and therefore had prior mandatory participation in TRS, when the employee left the ARP employer and became employed by the technology center in an eligible optional position, the employee would be required to participate in TRS due to that prior mandatory participation in TRS.**

3. An optional employee makes an election to participate in an ARP at a university employer. The employee is later employed at a K-12 school as an optional employee and elects to participate in TRS under SB 683. If the employee returns to their first employer, which prior election is effective?

The optional employee is governed by the election made in each employment group (ARP employers and Traditional TRS employers). Because the employee elected to join the ARP at their university employer, that election is in effect if they return to work at an ARP employer and they cannot elect to participate in TRS at that point. If the employee later returned to work at a school district, they would be bound by their election to participate in TRS at Traditional TRS employer.

4. An optional employee at a university employer has made an election to participate in the ARP. Since SB 683 has passed, does that employee receive a new election?

No. If an optional employee has elected to participate in the university's ARP, that election is irrevocable, and they will not be permitted to make an election under SB 683 while employed at the university. The employee will further not be allowed to elect to participate in TRS if they are employed by another ARP employer, because their original election is binding as to ARP employers.