

1 ENGROSSED SENATE
2 BILL NO. 674

By: Nichols and Barrington of
the Senate

3 and

4 Armes of the House

5
6
7 [retirement - Oklahoma Firefighters Pension and
8 Retirement System - payment of certain health
9 insurance premiums by deduction from certain
10 monthly payments - codification - effective date -
11 emergency]

12

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

14 SECTION 1. AMENDATORY 11 O.S. 2001, Section 49-106, as
15 last amended by Section 1, Chapter 203, O.S.L. 2005 (11 O.S. Supp.
16 2006, Section 49-106), is amended to read as follows:

17 Section 49-106. A. Any firefighter who reaches the
18 firefighter's normal retirement date shall be entitled, upon written
19 request, to retire from such service and be paid from the System a
20 monthly pension equal to the member's accrued retirement benefit;
21 provided, that the pension shall cease during any period of time the
22 member may thereafter serve for compensation in any municipal fire
23 department in the state. If such a member is reemployed by a
24 participating municipality in a position which is not covered by the

1 System, retirement shall also include receipt by such member of in-
2 service distributions from the System.

3 B. With respect to distributions under the System made for
4 calendar years beginning on or after January 1, 2005, the System
5 shall apply the minimum distribution incidental benefit
6 requirements, incidental benefit requirements, and minimum
7 distribution requirements of Section 401(a)(9) of the Internal
8 Revenue Code of 1986, as amended, in accordance with the final
9 regulations under Section 401(a)(9) of the Internal Revenue Code of
10 1986, as amended, which were issued in April 2002 and June 2004,
11 notwithstanding any provision of the System to the contrary. With
12 respect to distributions under the System made for calendar years
13 beginning on or after January 1, 2001 through December 31, 2004, the
14 System shall apply the minimum distribution requirements and
15 incidental benefit requirements of Section 401(a)(9) of the Internal
16 Revenue Code of 1986, as amended, in accordance with the regulations
17 under Section 401(a)(9) of the Internal Revenue Code of 1986, as
18 amended, which were proposed in January 2001, notwithstanding any
19 provision of the System to the contrary. Effective July 1, 1989,
20 notwithstanding any other provision contained herein to the
21 contrary, in no event shall commencement of distribution of the
22 accrued retirement benefit of a member be delayed beyond April 1 of
23 the calendar year following the later of:

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1 1. The calendar year in which the member reaches seventy and
2 one-half (70 1/2) years of age; or

3 2. The actual retirement date of the member.

4 C. Any member or beneficiary eligible to receive a monthly
5 benefit from the System may make an election to waive all or a
6 portion of monthly benefits.

7 D. If the requirements of Section 4 of this act are satisfied,
8 a member who, by reason of attainment of normal retirement date or
9 age, is separated from service as a public safety officer with the
10 member's participating municipality, may elect to have payment made
11 directly to the provider for qualified health insurance premiums by
12 deduction from his or her monthly pension payment, after December
13 31, 2006, in accordance with Section 402(1) of the Internal Revenue
14 Code of 1986, as amended.

15 SECTION 2. AMENDATORY 11 O.S. 2001, Section 49-106.3, as
16 amended by Section 5, Chapter 128, O.S.L. 2003 (11 O.S. Supp. 2006,
17 Section 49-106.3), is amended to read as follows:

18 Section 49-106.3 A. For distributions made on or after January
19 1, 1993, and notwithstanding any provision of the System to the
20 contrary that would otherwise limit a Distributee's election
21 hereunder, a Distributee may elect, at the time and in the manner
22 prescribed by the State Board, to have any portion of an Eligible
23 Rollover Distribution paid directly to an Eligible Retirement Plan
24 specified by the Distributee in a Direct Rollover.

1 B. For purposes of this section, the following definitions
2 shall apply:

3 1. "Eligible Rollover Distribution" means any distribution of
4 all or any portion of the balance to the credit of the Distributee,
5 except that an Eligible Rollover Distribution does not include any
6 distribution that is one of a series of substantially equal periodic
7 payments (not less frequently than annually) made for the life (or
8 life expectancy) of the Distributee or the joint lives (or life
9 expectancies) of the Distributee and the Distributee's designated
10 beneficiary, or for a specified period of ten (10) years or more;
11 any distribution to the extent such distribution is required under
12 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;
13 and the portion of any distribution that is not includable in gross
14 income. ~~Provided~~; provided, however, that, effective January 1,
15 2002, a portion of a distribution shall not fail to be an Eligible
16 Rollover Distribution merely because the portion consists of after-
17 tax member contributions which are not includable in gross income.
18 However, such portion may be paid only ~~to~~:

19 (a) from January 1, 2002, through December 31, 2006, to:

20 (1) an individual retirement account or annuity
21 described in Section 408(a) or (b) of the
22 Internal Revenue Code of 1986, as amended, or ~~to~~

23 (2) a qualified trust which is a part of a defined
24 contribution plan described in Section 401(a) or

1 403(a) of the Internal Revenue Code of 1986, as
2 amended, ~~that~~ and which agrees to separately
3 account for amounts so transferred, including
4 separate separately accounting for the portion of
5 such distribution which is includable in gross
6 income and the portion of such distribution which
7 is not so includable, and

8 (b) on or after January 1, 2007, to:

9 (1) an individual retirement account or annuity
10 described in Section 408(a) or (b) of the
11 Internal Revenue Code of 1986, as amended, or

12 (2) a qualified trust described in Section 401(a) or
13 403(a) of the Internal Revenue Code of 1986, as
14 amended, or an annuity contract described in
15 Section 403(b) of the Internal Revenue Code of
16 1986, as amended, and such trust or annuity
17 contract provides for separate accounting for
18 amounts so transferred and earnings thereon,
19 including separately accounting for the portion
20 of such distribution which is includable in gross
21 income and the portion of such distribution which
22 is not so includable;

23 2. "Eligible Retirement Plan" means an individual retirement
24 account described in Section 408(a) of the Internal Revenue Code of

1 1986, as amended, an individual retirement annuity described in
2 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
3 annuity plan described in Section 403(a) of the Internal Revenue
4 Code of 1986, as amended, or a qualified trust described in Section
5 401(a) of the Internal Revenue Code of 1986, as amended, that
6 accepts the Distributee's Eligible Rollover Distribution. Effective
7 January 1, 2002, an Eligible Retirement Plan shall also mean an
8 annuity contract described in Section 403(b) of the Internal Revenue
9 Code of 1986, as amended, and an eligible plan under Section 457(b)
10 of the Internal Revenue Code of 1986, as amended, which is
11 maintained by a state, political subdivision of a state, or any
12 agency or instrumentality of a state or political subdivision of a
13 state and which agrees to separately account for amounts transferred
14 into such plan from the System. Effective January 1, 2002, the
15 definition of Eligible Retirement Plan shall also apply in the case
16 of a distribution to a surviving spouse, or to a spouse or former
17 spouse who is the alternate payee pursuant to a qualified domestic
18 order as defined in subsection B of Section 49-126 of this title.
19 An Eligible Retirement Plan does not include a Roth IRA under
20 Section 408-~~(a)~~(A) of the Internal Revenue Code of 1986, as amended;

21 3. "Distributee" means a member whether or not said member is
22 an active firefighter. In addition, effective June 7, 1993, the
23 member's surviving spouse and the member's spouse or former spouse
24 who is an alternate payee under a qualified domestic order, as

1 provided in subsection B of Section 49-126 of this title, are
2 Distributees with regard to the interest of the spouse or former
3 spouse; and

4 4. "Direct Rollover" means a payment by the System to the
5 Eligible Retirement Plan specified by the Distributee.

6 C. At least thirty (30) days before and, effective January 1,
7 2007, not ~~less~~ more than ~~ninety (90)~~ one hundred eighty (180) days
8 before the date of distribution, the Distributee must be provided
9 with a notice of rights which satisfies Section 402(f) of the
10 Internal Revenue Code of 1986, as amended, as to rollover options
11 and tax effects. Such distribution may commence less than thirty
12 (30) days after the notice is given, provided that:

13 1. The State Board clearly informs the Distributee that the
14 Distributee has a right to a period of at least thirty (30) days
15 after receiving the notice to consider the decision of whether or
16 not to elect a distribution; and

17 2. The Distributee, after receiving the notice, affirmatively
18 elects a distribution.

19 SECTION 3. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 49-106.4 of Title 11, unless
21 there is created a duplication in numbering, reads as follows:

22 A. An individual who has been designated, pursuant to Section
23 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended, as
24 the beneficiary of a deceased member and who is not the surviving

1 spouse of the member, may elect, in accordance with Section
2 402(c)(11) of the Internal Revenue Code of 1986, as amended, and at
3 the time and in the manner prescribed by the Oklahoma Firefighters
4 Pension and Retirement Board, to have a direct trustee-to-trustee
5 transfer of any portion of such beneficiary's lump-sum distribution
6 from the Oklahoma Firefighters Pension and Retirement System after
7 December 31, 2006, made to an individual retirement account or
8 individual retirement annuity other than an endowment contract
9 described in Section 408(a) or (b) of the Internal Revenue Code of
10 1986, as amended (IRA). If such transfer is made then:

11 1. The transfer is treated as an eligible rollover distribution
12 for purposes of Section 402(c)(11) of the Internal Revenue Code of
13 1986, as amended;

14 2. The transferee IRA is treated as an inherited individual
15 retirement account or an inherited individual retirement annuity
16 within the meaning of Section 408(d)(3)(C) of the Internal Revenue
17 Code of 1986, as amended; and

18 3. The required minimum distribution rules of Section
19 401(a)(9)(B) other than clause iv of the Internal Revenue Code of
20 1986, as amended, apply to the transferee IRA.

21 B. A trust maintained for the benefit of one or more designated
22 beneficiaries shall be treated in the same manner as a trust
23 designated beneficiary.

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1 C. The State Board shall promulgate such rules as are necessary
2 to implement the provisions of this section.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 49-106.5 of Title 11, unless
5 there is created a duplication in numbering, reads as follows:

6 A. A member who is an eligible retired public safety officer
7 and who wishes to have direct payments made toward the member's
8 qualified health insurance premiums from the member's monthly
9 disability benefit or monthly pension payment must make a written
10 election in accordance with Section 402(1) of the Internal Revenue
11 Code of 1986, as amended, on the form provided by the Oklahoma
12 Firefighters Pension and Retirement System, as follows:

13 1. The election must be made after the member separates from
14 service as a public safety officer with the member's participating
15 municipality;

16 2. The election shall only apply to distributions from the
17 System after December 31, 2006, and to amounts not yet distributed
18 to the eligible retired public safety officer;

19 3. Direct payments for an eligible retired public safety
20 officer's qualified health insurance premiums can only be made from
21 the member's monthly disability benefit or monthly pension payment
22 from the System and cannot be made from the Deferred Option Plan;
23 and
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1 4. The aggregate amount of the exclusion from an eligible
2 retired public safety officer's gross income is Three Thousand
3 Dollars (\$3,000.00) per calendar year.

4 B. As used in this section:

5 1. "Public safety officer" means a member serving a public
6 agency in an official capacity, with or without compensation, as a
7 law enforcement officer, firefighter, chaplain, or as a member of a
8 rescue squad or ambulance crew;

9 2. "Eligible retired public safety officer" means a member who,
10 by reason of disability or attainment of normal retirement date or
11 age, is separated from service as a public safety officer with the
12 member's participating municipality; and

13 3. "Qualified health insurance premiums" means premiums for
14 coverage for the eligible retired public safety officer, the
15 eligible retired public safety officer's spouse, and dependents by
16 an accident or health insurance plan or a qualified long-term care
17 insurance contract. The health plan does not have to be sponsored
18 by the eligible retired public safety officer's former participating
19 municipality.

20 C. The Oklahoma Firefighters Pension and Retirement Board shall
21 promulgate such rules as are necessary to implement the provisions
22 of this section.

23 SECTION 5. AMENDATORY 11 O.S. 2001, Section 49-109, as
24 last amended by Section 13, Chapter 46, 2nd Extraordinary Session,

1 O.S.L. 2006 (11 O.S. Supp. 2006, Section 49-109), is amended to read
2 as follows:

3 Section 49-109. A. Whenever any firefighter serving in any
4 capacity in a regularly constituted fire department of a
5 municipality shall become so physically or mentally disabled while
6 in, or in consequence of, the performance of the firefighter's duty
7 as to prevent the effective performance of the firefighter's duties,
8 the State Board may, upon the firefighter's written request, or
9 without such request if the State Board deems it for the good of the
10 department, retire the firefighter from active service, and if so
11 retired, shall direct that the firefighter be paid from the System a
12 monthly pension equal to the greater of:

13 1. Fifty percent (50%) of the average monthly salary which was
14 paid to the firefighter during the last thirty (30) months of the
15 firefighter's service; or

16 2. Two and one-half percent (2 1/2%) of the firefighter's final
17 average salary multiplied by the member's years of credited service,
18 not to exceed thirty (30) years, provided such firefighter has
19 completed twenty (20) or more years of credited service.

20 B. If the disability ceases within two (2) years from the date
21 of the firefighter's disability retirement and before the
22 firefighter's normal retirement date, the formerly disabled person
23 shall be restored to active service at the salary attached to the
24 rank the firefighter held at the time of the firefighter's

1 disability retirement provided the firefighter is capable of
2 performing the duties of a firefighter. Whenever such disability
3 shall cease, such disability pension provided pursuant to paragraph
4 1 of subsection A of this section shall cease. If a firefighter
5 participates in the Oklahoma Firefighters Deferred Option Plan
6 pursuant to Section 49-106.1 of this title, the firefighter's
7 disability pension provided pursuant to this subsection shall be
8 reduced to account for the firefighter's participation in the
9 Oklahoma Firefighters Deferred Option Plan.

10 C. Whenever any firefighter, who has served in any capacity in
11 a regularly constituted fire department of a municipality of the
12 state, and who has served less than the firefighter's normal
13 retirement date, shall become so physically or mentally disabled
14 from causes not arising in the line of duty as to prevent the
15 effective performance of the firefighter's duties, the firefighter
16 shall be entitled to a pension during the continuance of said
17 disability based upon the firefighter's service period which shall
18 be fifty percent (50%) of the average monthly salary which was paid
19 to the firefighter during the last sixty (60) months of the
20 firefighter's service.

21 D. No firefighter shall accrue additional service time while
22 receiving a disability pension; provided further, that nothing
23 herein contained shall affect the eligibility of any firefighter to
24 apply for and receive a retirement pension after the firefighter's

1 normal retirement date; provided further, that no firefighter shall
2 receive retirement benefits from the System during the time the
3 firefighter is receiving disability benefits from the System. Any
4 member or beneficiary eligible to receive a monthly benefit pursuant
5 to this section may make an election to waive all or a portion of
6 monthly benefits.

7 E. If the requirements of Section 4 of this act are satisfied,
8 a member who, by reason of disability, is separated from service as
9 a public safety officer with the member's participating
10 municipality, may elect to have payment made directly to the
11 provider for qualified health insurance premiums by deduction from
12 his or her monthly disability benefit, after December 31, 2006, in
13 accordance with Section 402(1) of the Internal Revenue Code of 1986,
14 as amended.

15 SECTION 6. This act shall become effective July 1, 2007.

16 SECTION 7. It being immediately necessary for the preservation
17 of the public peace, health and safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

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