

CS for SB 674

THE STATE SENATE
Monday, February 26, 2007

Committee Substitute for
Senate Bill No. 674

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 674 - By: NICHOLS of the Senate and ARMES of the House.

[retirement - Oklahoma Firefighters Pension and Retirement System - payment of certain health insurance premiums by deduction from certain monthly payments - codification - effective date - emergency]

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

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

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

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

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

1 2. The actual retirement date of the member.

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

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

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

16 Section 49-106.3 A. For distributions made on or after January
17 1, 1993, and notwithstanding any provision of the System to the
18 contrary that would otherwise limit a Distributee's election
19 hereunder, a Distributee may elect, at the time and in the manner
20 prescribed by the State Board, to have any portion of an Eligible
21 Rollover Distribution paid directly to an Eligible Retirement Plan
22 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~~

1 (2) a qualified trust which is a part of a defined
2 contribution plan described in Section 401(a) or
3 403(a) of the Internal Revenue Code of 1986, as
4 amended, ~~that~~ and which agrees to separately
5 account for amounts so transferred, including
6 ~~separate~~ separately accounting for the portion of
7 such distribution which is includable in gross
8 income and the portion of such distribution which
9 is not so includable, and

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

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

14 (2) a qualified trust described in Section 401(a) or
15 403(a) of the Internal Revenue Code of 1986, as
16 amended, or an annuity contract described in
17 Section 403(b) of the Internal Revenue Code of
18 1986, as amended, and such trust or annuity
19 contract provides for separate accounting for
20 amounts so transferred and earnings thereon,
21 including separately accounting for the portion
22 of such distribution which is includable in gross

1 income and the portion of such distribution which
2 is not so includable;

3 2. "Eligible Retirement Plan" means an individual retirement
4 account described in Section 408(a) of the Internal Revenue Code of
5 1986, as amended, an individual retirement annuity described in
6 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
7 annuity plan described in Section 403(a) of the Internal Revenue
8 Code of 1986, as amended, or a qualified trust described in Section
9 401(a) of the Internal Revenue Code of 1986, as amended, that
10 accepts the Distributee's Eligible Rollover Distribution. Effective
11 January 1, 2002, an Eligible Retirement Plan shall also mean an
12 annuity contract described in Section 403(b) of the Internal Revenue
13 Code of 1986, as amended, and an eligible plan under Section 457(b)
14 of the Internal Revenue Code of 1986, as amended, which is
15 maintained by a state, political subdivision of a state, or any
16 agency or instrumentality of a state or political subdivision of a
17 state and which agrees to separately account for amounts transferred
18 into such plan from the System. Effective January 1, 2002, the
19 definition of Eligible Retirement Plan shall also apply in the case
20 of a distribution to a surviving spouse, or to a spouse or former
21 spouse who is the alternate payee pursuant to a qualified domestic
22 order as defined in subsection B of Section 49-126 of this title.

1 An Eligible Retirement Plan does not include a Roth IRA under
2 Section 408(a)(A) of the Internal Revenue Code of 1986, as amended;

3 3. "Distributee" means a member whether or not said member is
4 an active firefighter. In addition, effective June 7, 1993, the
5 member's surviving spouse and the member's spouse or former spouse
6 who is an alternate payee under a qualified domestic order, as
7 provided in subsection B of Section 49-126 of this title, are
8 Distributees with regard to the interest of the spouse or former
9 spouse; and

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

12 C. At least thirty (30) days before and, effective January 1,
13 2007, not less more than ninety (90) one hundred eighty (180) days
14 before the date of distribution, the Distributee must be provided
15 with a notice of rights which satisfies Section 402(f) of the
16 Internal Revenue Code of 1986, as amended, as to rollover options
17 and tax effects. Such distribution may commence less than thirty
18 (30) days after the notice is given, provided that:

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

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

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

6 A. An individual who has been designated, pursuant to Section
7 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended, as
8 the beneficiary of a deceased member and who is not the surviving
9 spouse of the member, may elect, in accordance with Section
10 402(c)(11) of the Internal Revenue Code of 1986, as amended, and at
11 the time and in the manner prescribed by the Oklahoma Firefighters
12 Pension and Retirement Board, to have a direct trustee-to-trustee
13 transfer of any portion of such beneficiary's lump-sum distribution
14 from the Oklahoma Firefighters Pension and Retirement System after
15 December 31, 2006, made to an individual retirement account or
16 individual retirement annuity other than an endowment contract
17 described in Section 408(a) or (b) of the Internal Revenue Code of
18 1986, as amended (IRA). If such transfer is made then:

19 1. The transfer is treated as an eligible rollover distribution
20 for purposes of Section 402(c)(11) of the Internal Revenue Code of
21 1986, as amended;

22 2. The transferee IRA is treated as an inherited individual
23 retirement account or an inherited individual retirement annuity

1 within the meaning of Section 408(d)(3)(C) of the Internal Revenue
2 Code of 1986, as amended; and

3 3. The required minimum distribution rules of Section
4 401(a)(9)(B) other than clause iv of the Internal Revenue Code of
5 1986, as amended, apply to the transferee IRA.

6 B. A trust maintained for the benefit of one or more designated
7 beneficiaries shall be treated in the same manner as a trust
8 designated beneficiary.

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

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

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

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

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

4 3. Direct payments for an eligible retired public safety
5 officer's qualified health insurance premiums can only be made from
6 the member's monthly disability benefit or monthly pension payment
7 from the System and cannot be made from the Deferred Option Plan;
8 and

9 4. The aggregate amount of the exclusion from an eligible
10 retired public safety officer's gross income is Three Thousand
11 Dollars (\$3,000.00) per calendar year.

12 B. As used in this section:

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

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

21 3. "Qualified health insurance premiums" means premiums for
22 coverage for the eligible retired public safety officer, the
23 eligible retired public safety officer's spouse, and dependents by

1 an accident or health insurance plan or a qualified long-term care
2 insurance contract. The health plan does not have to be sponsored
3 by the eligible retired public safety officer's former participating
4 municipality.

5 C. The Oklahoma Firefighters Pension and Retirement Board shall
6 promulgate such rules as are necessary to implement the provisions
7 of this section.

8 SECTION 5. AMENDATORY 11 O.S. 2001, Section 49-109, as
9 last amended by Section 13, Chapter 46, 2nd Extraordinary Session,
10 O.S.L. 2006 (11 O.S. Supp. 2006, Section 49-109), is amended to read
11 as follows:

12 Section 49-109. A. Whenever any firefighter serving in any
13 capacity in a regularly constituted fire department of a
14 municipality shall become so physically or mentally disabled while
15 in, or in consequence of, the performance of the firefighter's duty
16 as to prevent the effective performance of the firefighter's duties,
17 the State Board may, upon the firefighter's written request, or
18 without such request if the State Board deems it for the good of the
19 department, retire the firefighter from active service, and if so
20 retired, shall direct that the firefighter be paid from the System a
21 monthly pension equal to the greater of:

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

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

8 B. If the disability ceases within two (2) years from the date
9 of the firefighter's disability retirement and before the
10 firefighter's normal retirement date, the formerly disabled person
11 shall be restored to active service at the salary attached to the
12 rank the firefighter held at the time of the firefighter's
13 disability retirement provided the firefighter is capable of
14 performing the duties of a firefighter. Whenever such disability
15 shall cease, such disability pension provided pursuant to paragraph
16 1 of subsection A of this section shall cease. If a firefighter
17 participates in the Oklahoma Firefighters Deferred Option Plan
18 pursuant to Section 49-106.1 of this title, the firefighter's
19 disability pension provided pursuant to this subsection shall be
20 reduced to account for the firefighter's participation in the
21 Oklahoma Firefighters Deferred Option Plan.

22 C. Whenever any firefighter, who has served in any capacity in
23 a regularly constituted fire department of a municipality of the

1 state, and who has served less than the firefighter's normal
2 retirement date, shall become so physically or mentally disabled
3 from causes not arising in the line of duty as to prevent the
4 effective performance of the firefighter's duties, the firefighter
5 shall be entitled to a pension during the continuance of said
6 disability based upon the firefighter's service period which shall
7 be fifty percent (50%) of the average monthly salary which was paid
8 to the firefighter during the last sixty (60) months of the
9 firefighter's service.

10 D. No firefighter shall accrue additional service time while
11 receiving a disability pension; provided further, that nothing
12 herein contained shall affect the eligibility of any firefighter to
13 apply for and receive a retirement pension after the firefighter's
14 normal retirement date; provided further, that no firefighter shall
15 receive retirement benefits from the System during the time the
16 firefighter is receiving disability benefits from the System. Any
17 member or beneficiary eligible to receive a monthly benefit pursuant
18 to this section may make an election to waive all or a portion of
19 monthly benefits.

20 E. If the requirements of Section 4 of this act are satisfied,
21 a member who, by reason of disability, is separated from service as
22 a public safety officer with the member's participating
23 municipality, may elect to have payment made directly to the

1 provider for qualified health insurance premiums by deduction from
2 his or her monthly disability benefit, after December 31, 2006, in
3 accordance with Section 402(1) of the Internal Revenue Code of 1986,
4 as amended.

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

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

10 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 2-21-07 - DO PASS, As
11 Amended and Coauthored.