STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1002

By: McDaniel (Randy) and Wood of the House

and

Brinkley of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Firefighters Pension and Retirement System; amending 11 O.S. 2011, Section 49-100.7, as amended by Section 2, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2014, Section 49-100.7), which relates to the Board; requiring Board to develop certain procedures; amending 11 O.S. 2011, Section 49-106.3, as amended by Section 6, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2014, Section 49-106.3), which relates to definition; updating language to reflect current Income Tax Regulations, Internal Revenue Code and Internal Revenue Service Notice; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 49-100.7, as amended by Section 2, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2014, Section 49-100.7), is amended to read as follows:

Section 49-100.7 A. The State Board shall be responsible for the policies and rules for the general administration of the System, subject to the provisions of this article.

B. The State Board shall establish rules and regulations for the administration of the System and for the transaction of its business consistent with law, which rules and regulations shall be filed with the Secretary of State.

C. The State Board shall be responsible for the installation or provision of a complete and adequate system of accounts and records.

D. All meetings of the State Board shall be open to the public. The State Board shall keep a record of its proceedings.

E. The State Board may adopt all necessary actuarial tables to be used in the operation of the System as recommended by the actuary and may compile such additional data as may be necessary for required actuarial valuation calculations.

F. All decisions of the State Board as to questions of fact shall be final and conclusive on all persons except for the right of review as provided by law and except for fraud or such gross mistake of fact as to have effect equivalent to fraud.

G. The State Board shall take all necessary action upon applications for pensions, disability benefits, refund of accumulated contributions and shall take action on all other matters deemed necessary by the State Board, including bringing actions for

declaratory relief in the district courts in the state to enforce the provisions of applicable state law.

H. On or after July 1, 2011, the State Board may permit, effective for applicable notices, elections and consents provided or made for a member, beneficiary, alternate payee or individual entitled to benefits under the System, the use of electronic media to provide such applicable notices and make such elections and consents as described in Section 1.401(a)-21 of the Income Tax Regulations.

I. The State Board shall develop such procedures and may require such information from the distributing plan as it deems necessary to reasonably conclude that a potential rollover contribution is a valid rollover contribution under Section 1.401(a)(31)-1, Q&A-14(b)(2), of the Income Tax Regulations.

SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-106.3, as amended by Section 6, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2014, Section 49-106.3), is amended to read as follows:

Section 49-106.3 A. For distributions made on or after January 1, 2002, and notwithstanding any provision of the System to the contrary that would otherwise limit a Distributee's election hereunder, a Distributee, including a nonspouse designated beneficiary, to the extent permitted under paragraph 3 of subsection B of this section, may elect, at the time and in the manner prescribed by the State Board, to have any portion of an Eligible

Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

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

1. "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended; and the portion of any distribution that is not includable in gross income. A portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax member contributions which are not includable in gross income. However, such portion may be transferred only:

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

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

(2) in a direct trustee-to-trustee transfer, to a qualified trust which is a part of a defined contribution plan that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable, and

(b) on or after January 1, 2007:

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

(2) in a direct trustee-to-trustee transfer, to a qualified trust or an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, and such trust or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable.

Effective for distributions after December 31, 2007, such after-tax portion may also be directly transferred to a Roth individual

retirement account or annuity described in Section 408A of the Internal Revenue Code of 1986, as amended, (Roth IRA), subject to any limitations described in Section 408A(c) of the Internal Revenue Code of 1986, as amended;

2. "Eligible Retirement Plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1986, as amended, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986, as amended, an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986, as amended, or a qualified trust described in Section 401(a) of the Internal Revenue Code of 1986, as amended, that accepts the Distributee's Eligible Rollover Distribution. Effective January 1, 2002, an Eligible Retirement Plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, and an eligible plan under Section 457(b) of the Internal Revenue Code of 1986, as amended, which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the System. Effective for distributions after December 31, 2007, an Eligible Retirement Plan includes a Roth IRA, subject to any limitations described in Section 408A(c) of the Internal Revenue Code of 1986, as amended;

3. "Distributee" means a member whether or not the member is an active firefighter. In addition, the member's surviving spouse and the member's spouse or former spouse who is an alternate payee under a qualified domestic order, as provided in subsection B of Section 49-126 of this title, are Distributees with regard to the interest of the spouse or former spouse. Effective for distributions after December 31, 2006, a Distributee also includes the member's nonspouse designated beneficiary, and certain trusts described in Section 402(c)(11)(B) of the Internal Revenue Code of 1986, as amended, pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended, who may elect any portion of a payment to be made in a Direct Rollover only to a traditional individual retirement account or annuity (other than an endowment contract) described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, (IRA), or, effective for distributions after December 31, 2007, to a Roth IRA, that is established on behalf of such nonspouse designated beneficiary for the purpose of receiving the distribution and that will be treated as an inherited IRA pursuant to the provisions of Section 402(c)(11) of the Internal Revenue Code of 1986, as amended. Also, in this case, the determination of any required minimum distribution under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, that is ineligible for rollover shall be made in accordance with Notice 2007-7, Q&A 17 and 18, 2007-5 Internal Revenue Bulletin 395. The

required minimum distribution rules of Section 401(a)(9)(B)(other than clause iv thereof) of the Internal Revenue Code of 1986, as amended, apply to the transferee IRA; and

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

C. At least thirty (30) days before and, effective for years beginning after December 31, 2006, not more than one hundred eighty (180) days before the date of distribution, the Distributee (other than a nonspouse designated beneficiary prior to July 1, 2010) must be provided with a notice of rights which satisfies Section 402(f) of the Internal Revenue Code of 1986, as amended, as to rollover options and tax effects. Such distribution may commence less than thirty (30) days after the notice is given, provided that:

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

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

D. For distributions made after December 31, 2006, but prior to July 1, 2010, a distribution with respect to a nonspouse designated beneficiary shall be made in accordance with Notice 2007-7, Q&A 15, 2007-5 Internal Revenue Bulletin 395. Effective for plan years beginning after December 31, 2009, a distribution with respect to a

nonspouse designated beneficiary shall be subject to Sections 401(a)(31), 402(f) and 3405(c) of the Internal Revenue Code of 1986, as amended.

E. Effective for distributions after December 31, 2014, the guidance under IRS Notice 2014-54 shall be followed for purposes of determining the portion of a disbursement of benefits from the System to a Distributee that is not includable in gross income under Section 72 of the Internal Revenue Code of 1986, as amended.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and 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.

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