

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 1706

By: McDaniel

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Law Enforcement Retirement System; amending 47 O.S. 2011, Sections 2-305.1A, as last amended by Section 3, Chapter 171, O.S.L. 2015 and 2-305.1B, as amended by Section 3, Chapter 52, O.S.L. 2012 (47 O.S. Supp. 2016, Sections 2-305.1A and 2-305.1B), which relate to certain transfers and distributions; modifying definitions; modifying provisions related to distributions occurring after specified date; modifying provisions related to distributions occurring after specified period; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 2-305.1A, as last amended by Section 3, Chapter 171, O.S.L. 2015 (47 O.S. Supp. 2016, Section 2-305.1A), is amended to read as follows:

Section 2-305.1A A. This section applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the System to the contrary that would otherwise limit a Distributee's election hereunder, a Distributee, including a nonspouse designated

1 beneficiary, to the extent permitted under paragraph 3 of subsection
2 B of this section, may elect, at the time and in the manner
3 prescribed by the Board, to have any portion of an Eligible Rollover
4 Distribution paid directly to an Eligible Retirement Plan specified
5 by the Distributee in a Direct Rollover.

6 B. As used in this section:

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

22 a. from January 1, 2002, through December 31, 2006:

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- 1 (1) to an individual retirement account or annuity
2 described in Section 408(a) or (b) of the
3 Internal Revenue Code of 1986, as amended, or
4 (2) in a direct trustee-to-trustee transfer, to a
5 qualified trust which is part of a defined
6 contribution plan that agrees to separately
7 account for amounts so transferred, including
8 separately accounting for the portion of such
9 distribution which is includable in gross income
10 and the portion of such distribution which is not
11 so includable, and

12 b. on or after January 1, 2007:

- 13 (1) to an individual retirement account or annuity
14 described in Section 408(a) or (b) of the
15 Internal Revenue Code of 1986, as amended, or
16 (2) in a direct trustee-to-trustee transfer to a
17 qualified trust or an annuity contract described
18 in Section 403(b) of the Internal Revenue Code of
19 1986, as amended, and such trust or contract
20 provides for separate accounting for amounts so
21 transferred (and earnings thereon), including
22 separately accounting for the portion of such
23 distribution which is includable in gross income
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1 and the portion of such distribution which is not
2 so includable.

3 Effective for distributions after December 31, 2007, such after-
4 tax portion may also be directly transferred to a Roth individual
5 retirement account or annuity described in Section 408A of the
6 Internal Revenue Code of 1986, as amended, ("Roth IRA"), subject to
7 any limitations described in Section 408A(c) of the Internal Revenue
8 Code of 1986, as amended;

9 2. "Eligible Retirement Plan" means an individual retirement
10 account described in Section 408(a) of the Internal Revenue Code of
11 1986, as amended, an individual retirement annuity described in
12 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
13 annuity plan described in Section 403(a) of the Internal Revenue
14 Code of 1986, as amended, or a qualified trust described in Section
15 401(a) of the Internal Revenue Code of 1986, as amended, that
16 accepts the Distributee's Eligible Rollover Distribution. Effective
17 January 1, 2002, an Eligible Retirement Plan shall also mean an
18 annuity contract described in Section 403(b) of the Internal Revenue
19 Code of 1986, as amended, and an eligible plan under Section 457(b)
20 of the Internal Revenue Code of 1986, as amended, which is
21 maintained by a state, political subdivision of a state, or any
22 agency or instrumentality of a state or political subdivision of a
23 state and which agrees to separately account for amounts transferred
24 into such plan from the System. Effective for distributions after

1 December 31, 2007, an Eligible Retirement Plan includes a Roth IRA,
2 subject to any limitations under Section 408A(c) of the Internal
3 Revenue Code of 1986, as amended. Effective for distributions after
4 December 18, 2015, an Eligible Retirement Plan includes a SIMPLE IRA
5 in accordance with Section 408(p)(1)(B) of the Internal Revenue Code
6 of 1986, as amended, for purposes of a rollover contribution to such
7 SIMPLE IRA, but only if such rollover contribution is made after
8 December 18, 2015, and only if such rollover contribution occurs
9 after the two-year period described in Section 72(t)(6) of the
10 Internal Revenue Code of 1986, as amended;

11 3. "Distributee" means an employee or former employee. In
12 addition, the employee's or former employee's surviving spouse and
13 the employee's or former employee's spouse or former spouse who is
14 the alternate payee under a qualified domestic order, as defined in
15 subsection B of Section 2-303.3 of this title, are Distributees with
16 regard to the interest of the spouse or the former spouse.
17 ~~Effective for distributions after December 31, 2006, a~~ A Distributee
18 also includes the member's nonspouse designated beneficiary (and
19 certain trusts described in Section 402(c)(11)(B) of the Internal
20 Revenue Code of 1986, as amended), pursuant to Section 401(a)(9)(E)
21 of the Internal Revenue Code of 1986, as amended, who may elect any
22 portion of a payment to be made in a Direct Rollover only to a
23 ~~traditional~~ an individual retirement account or annuity (other than
24 an endowment contract) described in Section 408(a) or (b) of the

1 Internal Revenue Code of 1986, as amended, ("IRA") ~~7~~ (including,
2 effective for distributions after December 18, 2015, a SIMPLE IRA,
3 but only if such contribution occurs after the two-year period
4 described in Code Section 72(t)(6) and is made in accordance with
5 the Protecting Americans from Tax Hikes Act of 2015), or, effective
6 for distributions after December 31, 2007, to a Roth IRA, that is
7 established on behalf of such nonspouse designated beneficiary for
8 the purpose of receiving the distribution and that will be treated
9 as an inherited IRA pursuant to the provisions of Section 402(c)(11)
10 of the Internal Revenue Code of 1986, as amended. Also, in this
11 case, the determination of any required minimum distribution under
12 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
13 that is ineligible for rollover shall be made in accordance with
14 Notice 2007-7, Q&A 17 and 18, 2007-5 Internal Revenue Bulletin 395.
15 The required minimum distribution rules of Section 401(a)(9)(B)
16 (other than clause iv thereof) of the Internal Revenue Code of 1986,
17 as amended, apply to the transferee IRA; and

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

20 C. At least thirty (30) days before and, effective for years
21 beginning after December 31, 2006, not more than one hundred eighty
22 (180) days before the date of distribution, the Distributee (other
23 than a nonspouse designated beneficiary prior to July 1, 2010) must
24 be provided with a notice of rights which satisfies Section 402(f)

1 of the Internal Revenue Code of 1986, as amended, as to rollover
2 options and tax effects. Such distribution may commence less than
3 thirty (30) days after the notice is given, provided that:

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

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

10 D. For distributions made after December 31, 2006, but prior to
11 July 1, 2010, a distribution with respect to a nonspouse designated
12 beneficiary shall be made in accordance with Notice 2007-7, Q&A 15,
13 2007-5 Internal Revenue Bulletin 395. Effective for plan years
14 beginning after December 31, 2009, a distribution with respect to a
15 nonspouse designated beneficiary shall be subject to Sections
16 401(a)(31), 402(f) and 3405(c) of the Internal Revenue Code of 1986,
17 as amended.

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

1 SECTION 2. AMENDATORY 47 O.S. 2011, Section 2-305.1B, as
2 amended by Section 3, Chapter 52, O.S.L. 2012 (47 O.S. Supp. 2016,
3 Section 2-305.1B), is amended to read as follows:

4 Section 2-305.1B A. An individual who has been designated,
5 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of
6 1986, as amended, as the beneficiary of a deceased member and who is
7 not the surviving spouse of the member, may elect, in accordance
8 with Section 402(c)(11) of the Internal Revenue Code of 1986, as
9 amended, to have a direct trustee-to-trustee transfer of any portion
10 of such beneficiary's distribution from the Oklahoma Law Enforcement
11 Retirement System ~~after December 31, 2006,~~ made only to a
12 ~~traditional~~ an individual retirement account or individual
13 retirement annuity (other than an endowment contract) described in
14 Section 408(a) or (b) of the Internal Revenue Code of 1986, as
15 amended (IRA), (including, effective for distributions after
16 December 18, 2015, a SIMPLE IRA, but only if such contribution
17 occurs after the two-year period described in Section 72(t)(6) of
18 the Internal Revenue Code of 1986, as amended, and is made in
19 accordance with the Protecting Americans from Tax Hikes Act of
20 2015), or, effective for distributions after December 31, 2007, to a
21 Roth individual retirement account or annuity described in Section
22 408A of the Internal Revenue Code of 1986, as amended (Roth IRA),
23 that is established on behalf of such designated individual for the
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1 purpose of receiving the distribution. If such transfer is made,
2 then:

3 1. For distributions made after December 31, 2006, but prior to
4 July 1, 2010, the transfer is treated as an eligible rollover
5 distribution for purposes of Section 402(c)(11) of the Internal
6 Revenue Code of 1986, as amended. For plan years beginning after
7 December 31, 2009, the transfer is treated as an eligible rollover
8 distribution;

9 2. The transferee IRA is treated as an inherited individual
10 retirement account or an inherited individual retirement annuity
11 (within the meaning of Section 408(d)(3)(C) of the Internal Revenue
12 Code of 1986, as amended), and must be titled in the name of the
13 deceased member, for the benefit of the beneficiary; and

14 3. The required minimum distribution rules of Section
15 401(a)(9)(B), other than clause iv thereof, of the Internal Revenue
16 Code of 1986, as amended, apply to the transferee IRA.

17 B. A trust maintained for the benefit of one or more designated
18 beneficiaries shall be treated in the same manner as a designated
19 beneficiary.

20 C. The Board shall promulgate such rules as are necessary to
21 implement the provisions of this section.

22 SECTION 3. It being immediately necessary for the preservation
23 of the public peace, health or safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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