

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1705

By: McDaniel of the House

and

Quinn of the Senate

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Firefighters Pension and Retirement System; amending 11 O.S. 2011, Section 49-106.3, as last amended by Section 2, Chapter 367, O.S.L. 2015 (11 O.S. Supp. 2016, Section 49-106.3), which relates to distributions from the retirement plan; modifying provisions related to certain eligible rollover distributions; defining terms; providing for treatment of certain mandatory distributions occurring on or after designated date; amending 11 O.S. 2011, Section 49-106.4, as amended by Section 7, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2016, Section 49-106.4), which relates to certain transfers; modifying provisions related to certain distributions; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 11 O.S. 2011, Section 49-106.3, as
2 last amended by Section 2, Chapter 367, O.S.L. 2015 (11 O.S. Supp.
3 2016, Section 49-106.3), is amended to read as follows:

4 Section 49-106.3 A. For distributions made on or after January
5 1, 2002, and notwithstanding any provision of the System to the
6 contrary that would otherwise limit a Distributee's election
7 hereunder, a Distributee, including a nonspouse designated
8 beneficiary, to the extent permitted under paragraph 3 of subsection
9 B of this section, may elect, at the time and in the manner
10 prescribed by the State Board, to have any portion of an Eligible
11 Rollover Distribution paid directly to an Eligible Retirement Plan
12 specified by the Distributee in a Direct Rollover.

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

15 1. "Eligible Rollover Distribution" means any distribution of
16 all or any portion of the balance to the credit of the Distributee,
17 except that an Eligible Rollover Distribution does not include any
18 distribution that is one of a series of substantially equal periodic
19 payments (not less frequently than annually) made for the life (or
20 life expectancy) of the Distributee or the joint lives (or life
21 expectancies) of the Distributee and the Distributee's designated
22 beneficiary, or for a specified period of ten (10) years or more;
23 any distribution to the extent such distribution is required under
24 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;

1 and the portion of any distribution that is not includable in gross
2 income. A portion of a distribution shall not fail to be an
3 Eligible Rollover Distribution merely because the portion consists
4 of after-tax member contributions or any other distribution which
5 are not includable in gross income. However, such portion may be
6 transferred only:

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

8 (1) to an individual retirement account or annuity
9 described in Section 408(a) or (b) of the

10 Internal Revenue Code of 1986, as amended, or

11 (2) in a direct trustee-to-trustee transfer, to a
12 qualified trust which is a part of a defined

13 contribution plan that agrees to separately

14 account for amounts so transferred, including

15 separately accounting for the portion of such

16 distribution which is includable in gross income

17 and the portion of such distribution which is not

18 so includable, and

19 (b) on or after January 1, 2007:

20 (1) to 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

23 (2) in a direct trustee-to-trustee transfer, to a

24 qualified trust or an annuity contract described

1 in Section 403(b) of the Internal Revenue Code of
2 1986, as amended, and such trust or contract
3 provides for separate accounting for amounts so
4 transferred (and earnings thereon), including
5 separately accounting for the portion of such
6 distribution which is includable in gross income
7 and the portion of such distribution which is not
8 so includable.

9 Effective for distributions after December 31, 2007, such after-
10 tax portion may also be directly transferred to a Roth individual
11 retirement account or annuity described in Section 408A of the
12 Internal Revenue Code of 1986, as amended, (Roth IRA), subject to
13 any limitations described in Section 408A(c) of the Internal Revenue
14 Code of 1986, as amended;

15 2. "Eligible Retirement Plan" means an individual retirement
16 account described in Section 408(a) of the Internal Revenue Code of
17 1986, as amended, an individual retirement annuity described in
18 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
19 annuity plan described in Section 403(a) of the Internal Revenue
20 Code of 1986, as amended, or a qualified trust described in Section
21 401(a) of the Internal Revenue Code of 1986, as amended, that
22 accepts the Distributee's Eligible Rollover Distribution. Effective
23 January 1, 2002, an Eligible Retirement Plan shall also mean an
24 annuity contract described in Section 403(b) of the Internal Revenue

1 Code of 1986, as amended, and an eligible plan under Section 457(b)
2 of the Internal Revenue Code of 1986, as amended, which is
3 maintained by a state, political subdivision of a state, or any
4 agency or instrumentality of a state or political subdivision of a
5 state and which agrees to separately account for amounts transferred
6 into such plan from the System. Effective for distributions after
7 December 31, 2007, an Eligible Retirement Plan includes a Roth IRA,
8 subject to any limitations described in Section 408A(c) of the
9 Internal Revenue Code of 1986, as amended. Effective for
10 distributions after December 18, 2015, an Eligible Retirement Plan
11 includes a SIMPLE IRA in accordance with Section 408(p)(1)(B) of the
12 Internal Revenue Code of 1986, as amended, for purposes of a
13 rollover contribution to such SIMPLE IRA, but only if such rollover
14 contribution is made after December 18, 2015, and only if such
15 rollover contribution occurs after the two-year period described in
16 Section 72(t)(6) of the Internal Revenue Code of 1986, as amended;

17 3. "Distributee" means a member whether or not the member is an
18 active firefighter. In addition, the member's surviving spouse and
19 the member's spouse or former spouse who is an alternate payee under
20 a qualified domestic order, as provided in subsection B of Section
21 49-126 of this title, are Distributees with regard to the interest
22 of the spouse or former spouse. ~~Effective for distributions after~~
23 ~~December 31, 2006,~~ a A Distributee also includes the member's
24 nonspouse designated beneficiary, and certain trusts described in

1 Section 402(c)(11)(B) of the Internal Revenue Code of 1986, as
2 amended, pursuant to Section 401(a)(9)(E) of the Internal Revenue
3 Code of 1986, as amended, who may elect any portion of a payment to
4 be made in a Direct Rollover only to a ~~traditional~~ an individual
5 retirement account or annuity (other than an endowment contract)
6 described in Section 408(a) or (b) of the Internal Revenue Code of
7 1986, as amended, (IRA) ~~7~~ (including, effective for distributions
8 after December 18, 2015, a SIMPLE IRA but only if such contribution
9 occurs after the two-year period described in Code Section 72(t)(6)
10 and is made in accordance with the Protecting Americans from Tax
11 Hikes Act of 2015), or, effective for distributions after December
12 31, 2007, to a Roth IRA, that is established on behalf of such
13 nonspouse designated beneficiary for the purpose of receiving the
14 distribution and that will be treated as an inherited IRA pursuant
15 to the provisions of Section 402(c)(11) of the Internal Revenue Code
16 of 1986, as amended. Also, in this case, the determination of any
17 required minimum distribution under Section 401(a)(9) of the
18 Internal Revenue Code of 1986, as amended, that is ineligible for
19 rollover shall be made in accordance with Notice 2007-7, Q&A 17 and
20 18, 2007-5 Internal Revenue Bulletin 395. The required minimum
21 distribution rules of Section 401(a)(9)(B) (other than clause iv
22 thereof) of the Internal Revenue Code of 1986, as amended, apply to
23 the transferee IRA; ~~and~~

24

1 4. "Direct Rollover" means a payment by the System to the
2 Eligible Retirement Plan specified by the Distributee, or in the
3 case of an automatic rollover, the individual retirement plan that
4 the State Board designates; and

5 5. "Mandatory Distribution" means a distribution that is an
6 Eligible Rollover Distribution subject to Section 401(a)(31) of the
7 Internal Revenue Code of 1986, as amended, and is made without the
8 member's consent to a member before the member attains the later of
9 age sixty-two (62) or the member's normal retirement date. A
10 distribution to a surviving spouse, alternate payee, or a
11 distribution made upon a member's death is not a Mandatory
12 Distribution for purposes of the automatic rollover requirements of
13 Section 401(a)(31)(B) of the Internal Revenue Code of 1986, as
14 amended.

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

23 1. The State Board clearly informs the Distributee that the
24 Distributee has a right to a period of at least thirty (30) days

1 after receiving the notice to consider the decision of whether or
2 not to elect a distribution; and

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

5 D. For distributions made after December 31, 2006, but prior to
6 July 1, 2010, a distribution with respect to a nonspouse designated
7 beneficiary shall be made in accordance with Notice 2007-7, Q&A 15,
8 2007-5 Internal Revenue Bulletin 395. Effective for plan years
9 beginning after December 31, 2009, a distribution with respect to a
10 nonspouse designated beneficiary shall be subject to Sections
11 401(a)(31), 402(f) and 3405(c) of the Internal Revenue Code of 1986,
12 as amended.

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

18 F. In the event of a Mandatory Distribution greater than One
19 Thousand Dollars (\$1,000.00) made on or after June 28, 2018, if the
20 member does not elect to have such distribution paid directly to an
21 Eligible Retirement Plan specified by the member in a Direct
22 Rollover or to receive the distribution directly, then the State
23 Board shall pay the distribution in a Direct Rollover to an
24 individual retirement plan designated by the State Board. For

1 purposes of determining whether a Mandatory Distribution is greater
2 than One Thousand Dollars (\$1,000.00), the portion of the member's
3 distribution attributable to any rollover contribution is included.

4 SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-106.4, as
5 amended by Section 7, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2016,
6 Section 49-106.4), is amended to read as follows:

7 Section 49-106.4 A. An individual who has been designated,
8 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of
9 1986, as amended, as the beneficiary of a deceased member and who is
10 not the surviving spouse of the member, may elect, in accordance
11 with Section 402(c)(11) of the Internal Revenue Code of 1986, as
12 amended, to have a direct trustee-to-trustee transfer of any portion
13 of such beneficiary's distribution from the Oklahoma Firefighters
14 Pension and Retirement System ~~after December 31, 2006,~~ made only to
15 ~~a traditional~~ an individual retirement account or individual
16 retirement annuity (other than an endowment contract) described in
17 Section 408(a) or (b) of the Internal Revenue Code of 1986, as
18 amended (IRA) (including, effective for distributions after December
19 18, 2015, a SIMPLE IRA but only if such contribution occurs after
20 the two-year period described in Section 72(t)(6) of the Internal
21 Revenue Code of 1986, as amended, and is made in accordance with the
22 Protecting Americans from Tax Hikes Act of 2015), or, effective for
23 distributions after December 31, 2007, to a Roth individual
24 retirement account or annuity described in Section 408A of the

1 Internal Revenue Code of 1986, as amended (Roth IRA), that is
2 established on behalf of such designated individual for the purpose
3 of receiving the distribution. If such transfer is made then:

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

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

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

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

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

24

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

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6 COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND
7 PENSIONS, dated 02/16/2017 - DO PASS, As Amended and Coauthored.

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