ENGROSSED HOUSE
BILL NO. 1119

By: McDaniel and Ritze of the House

and

Quinn of the Senate

An Act relating to the Oklahoma Police Pension and Retirement System; amending 11 O.S. 2011, Sections 50-114.2, as last amended by Section 2, Chapter 23, O.S.L. 2015, 50-114.3, as amended by Section 5, Chapter 53, O.S.L. 2012 and 50-134 (11 O.S. Supp. 2016, Sections 50-114.2 and 50-114.3), which relate to rollover distributions and plan-to-plan transfers and administration of the retirement system; modifying definitions; authorizing State Board to obtain certain information related to eligibility for membership in the System; authorizing State Board to obtain information for purposes of audit related to computation of certain salary amounts; requiring confidentiality; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 50-114.2, as last amended by Section 2, Chapter 23, O.S.L. 2015 (11 O.S. Supp. 2016, Section 50-114.2), is amended to read as follows:

Section 50-114.2 A. This section applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the Oklahoma Police Pension and Retirement 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 Oklahoma Police Pension and Retirement 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 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.

Notwithstanding the foregoing, effective January 1, 2009, to the extent applicable, if all or a portion of a distribution from the Oklahoma Police Deferred Option Plan during 2009 is treated as an Eligible Rollover Distribution pursuant to Section 402(c)(4) of the Internal Revenue Code of 1986, as amended, but would not be so treated if the minimum distribution requirements under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, had applied during 2009, such distribution shall not be treated as an Eligible Rollover Distribution for purposes of Section 401(a)(31), Section 3405(c) or Section 402(f) 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 under Section 408A(c) of the Internal Revenue Code of 1986, as amended. Effective for distributions after December 18, 2015, an Eligible Retirement Plan includes a SIMPLE IRA in accordance with Section 408(p)(1)(B) of the Internal Revenue Code of 1986, as amended, for purposes of a rollover contribution to such SIMPLE IRA, but only if such rollover contribution is made after December 18, 2015, and only if such rollover contribution occurs after the two-year period described in Section 72(t)(6) of the Internal Revenue Code of 1986, as amended;

3. "Distributee" means an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is

the alternate payee under a qualified domestic order, as defined in subsection B of Section 50-124 of this title, are Distributees with regard to the interest of the spouse or the former spouse. ~~Effective for distributions after December 31, 2006, a~~ 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~~ an 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), (including, effective for distributions after December 18, 2015, a SIMPLE IRA but only if such contribution occurs after the two-year period described in Section 72(t)(6) of the Internal Revenue Code, as amended, and is made in accordance with the Protecting Americans from Tax Hikes Act of 2015), 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 I.R.B. 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 Oklahoma Police Pension and Retirement 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, for purposes of determining the portion of a disbursement of benefits from the System to a Distributee that is not includible in gross income under Section 72 of the Internal Revenue Code of 1986, as amended, the guidance under I.R.S. Notice 2014-54 shall be followed.

SECTION 2. AMENDATORY 11 O.S. 2011, Section 50-114.3, as amended by Section 5, Chapter 53, O.S.L. 2012 (11 O.S. Supp. 2016, Section 50-114.3), is amended to read as follows:

Section 50-114.3 A. An individual who has been designated, pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended, as the beneficiary of a deceased member and who is not the surviving spouse of the member, may elect, in accordance with Section 402(c)(11) of the Internal Revenue Code of 1986, as amended, to have a direct trustee-to-trustee transfer of any portion of such beneficiary's distribution from the System ~~after December 31, 2006,~~ made only to ~~a traditional~~ an individual retirement account or individual retirement annuity (other than an endowment contract) described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended (IRA), (including, effective for distributions after December 18, 2015, a SIMPLE IRA but only if such contribution occurs after the two-year period described in Section 72(t)(6) of the Internal Revenue Code of 1986, as amended, and is made in accordance with the Protecting Americans from Tax Hikes Act of 2015), or, effective for distributions after December 31, 2007, to a Roth individual retirement account or annuity described in Section 408A of the Internal Revenue Code of 1986, as amended (Roth IRA), that is established on behalf of such designated individual for the purpose of receiving the distribution. If such transfer is made, then:

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

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

3. 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.

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

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

SECTION 3. AMENDATORY 11 O.S. 2011, Section 50-134, is amended to read as follows:

Section 50-134. A. The State Board shall be responsible for the operation, administration and management of the System.

1. In order to carry out the responsibilities imposed upon them by law, the State Board shall appoint such advisors, consultants, agents and employees, each of whom may be such individual, firm or corporation as shall be deemed necessary or advisable and approved by the State Board. Such individuals, firms or corporations may be retained or employed in such manner and upon such terms as shall seem appropriate and proper to the State Board, either by contract or retainer, by regular full- or part-time employment or by such other arrangements as shall be satisfactory to the State Board and shall be subject to such bonding requirements as shall be established by the State Board. The fees, commissions, salaries and other compensation of such advisors, consultants, agents or employees shall be paid by the State Board from the Fund.

2. Notwithstanding any statute, regulation or rule to the contrary, the State Board may obtain from any participating

municipality and the Council on Law Enforcement Education and Training information for the purpose of the System performing an audit to determine any person's eligibility for membership in the System pursuant to Section 50-112 of this title. The State Board also may obtain from any participating municipality information for the purpose of the System performing an audit of such participating municipality to ensure compliance with the System's statutes or rules, including, but not limited to, information with respect to member compensation necessary to determine the amounts that should be included in or excluded from a member's paid base salary and the accuracy of amounts upon which member contributions are made. Any information received by the State Board pursuant to this paragraph shall be kept confidential by the System to the extent required by any applicable statute, regulation or rule.

B. The Executive Director shall perform the duties and services indicated below and such other duties and services as may, from time to time, be requested or directed by the State Board, and who shall be responsible to the State Board and shall attend all regular meetings of the State Board.

The Executive Director shall be responsible to the State Board for the day-to-day operation of the System, and shall on behalf of the State Board:

1. Be responsible for the transmittal of communications from the State Board to the participating municipalities;

2. Receive payroll and employment reports from participating municipalities and maintain current employment, earnings and contribution data on each covered member of each participating municipality;

3. Coordinate the activities of all other advisors, consultants, agents or employees appointed by the State Board;

4. Maintain all necessary records reflecting the operation and administration of the System and submit detailed reports thereof to the State Board at each regular meeting of the State Board and at such other time or times as requested by the State Board;

5. Process all claims for payment of benefits or expenses for approval by the State Board; ~~and~~

6. File on behalf of the State Board such reports or other information as shall be required by any state or federal law or regulations; and

7. Demand on behalf of the State Board information under paragraph 2 of subsection A of this section.

SECTION 4. It being immediately necessary for the preservation of the public peace, health or 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.

Passed the House of Representatives the 6th day of March, 2017.

____
Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of __________, 2017.

____
Presiding Officer of the Senate