

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1119

By: McDaniel of the House

and

Quinn of the Senate

AS INTRODUCED

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:

1 Section 50-114.2 A. This section applies to distributions made
2 on or after January 1, 2002. Notwithstanding any provision of the
3 Oklahoma Police Pension and Retirement System to the contrary that
4 would otherwise limit a Distributee's election hereunder, a
5 Distributee, including a nonspouse designated beneficiary, to the
6 extent permitted under paragraph 3 of subsection B of this section,
7 may elect, at the time and in the manner prescribed by the Oklahoma
8 Police Pension and Retirement Board, to have any portion of an
9 Eligible Rollover Distribution paid directly to an Eligible
10 Retirement Plan specified by the Distributee in a Direct Rollover.

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

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

1 Eligible Rollover Distribution merely because the portion consists
2 of after-tax member contributions which are not includable in gross
3 income. However, such portion may be transferred only:

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

5 (1) to an individual retirement account or annuity

6 described in Section 408(a) or (b) of the

7 Internal Revenue Code of 1986, as amended, or

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

9 qualified trust which is part of a defined

10 contribution plan that agrees to separately

11 account for amounts so transferred, including

12 separately accounting for the portion of such

13 distribution which is includable in gross income

14 and the portion of such distribution which is not

15 so includable, and

16 b. on or after January 1, 2007:

17 (1) to an individual retirement account or annuity

18 described in Section 408(a) or (b) of the

19 Internal Revenue Code of 1986, as amended, or

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

21 qualified trust or an annuity contract described

22 in Section 403(b) of the Internal Revenue Code of

23 1986, as amended, and such trust or contract

24 provides for separate accounting for amounts so

1 transferred (and earnings thereon), including
2 separately accounting for the portion of such
3 distribution which is includable in gross income
4 and the portion of such distribution which is not
5 so includable.

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

12 Notwithstanding the foregoing, effective January 1, 2009, to the
13 extent applicable, if all or a portion of a distribution from the
14 Oklahoma Police Deferred Option Plan during 2009 is treated as an
15 Eligible Rollover Distribution pursuant to Section 402(c)(4) of the
16 Internal Revenue Code of 1986, as amended, but would not be so
17 treated if the minimum distribution requirements under Section
18 401(a)(9) of the Internal Revenue Code of 1986, as amended, had
19 applied during 2009, such distribution shall not be treated as an
20 Eligible Rollover Distribution for purposes of Section 401(a)(31),
21 Section 3405(c) or Section 402(f) of the Internal Revenue Code of
22 1986, as amended;

23 2. "Eligible Retirement Plan" means an individual retirement
24 account described in Section 408(a) of the Internal Revenue Code of

1 1986, as amended, an individual retirement annuity described in
2 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
3 annuity plan described in Section 403(a) of the Internal Revenue
4 Code of 1986, as amended, or a qualified trust described in Section
5 401(a) of the Internal Revenue Code of 1986, as amended, that
6 accepts the Distributee's Eligible Rollover Distribution. Effective
7 January 1, 2002, an Eligible Retirement Plan shall also mean an
8 annuity contract described in Section 403(b) of the Internal Revenue
9 Code of 1986, as amended, and an eligible plan under Section 457(b)
10 of the Internal Revenue Code of 1986, as amended, which is
11 maintained by a state, political subdivision of a state, or any
12 agency or instrumentality of a state or political subdivision of a
13 state and which agrees to separately account for amounts transferred
14 into such plan from the System. Effective for distributions after
15 December 31, 2007, an Eligible Retirement Plan includes a Roth IRA,
16 subject to any limitations under Section 408A(c) of the Internal
17 Revenue Code of 1986, as amended. Effective for distributions after
18 December 18, 2015, an Eligible Retirement Plan includes a SIMPLE IRA
19 in accordance with Section 408(p)(1)(B) of the Internal Revenue Code
20 of 1986, as amended, for purposes of a rollover contribution to such
21 SIMPLE IRA, but only if such rollover contribution is made after
22 December 18, 2015, and only if such rollover contribution occurs
23 after the two-year period described in Section 72(t)(6) of the
24 Internal Revenue Code of 1986, as amended;

1 3. "Distributee" means an employee or former employee. In
2 addition, the employee's or former employee's surviving spouse and
3 the employee's or former employee's spouse or former spouse who is
4 the alternate payee under a qualified domestic order, as defined in
5 subsection B of Section 50-124 of this title, are Distributees with
6 regard to the interest of the spouse or the former spouse.

7 ~~Effective for distributions after December 31, 2006, a~~ A Distributee
8 also includes the member's nonspouse designated beneficiary (and
9 certain trusts described in Section 402(c)(11)(B) of the Internal
10 Revenue Code of 1986, as amended), pursuant to Section 401(a)(9)(E)
11 of the Internal Revenue Code of 1986, as amended, who may elect any
12 portion of a payment to be made in a Direct Rollover only to ~~a~~
13 ~~traditional~~ an individual retirement account or annuity (other than
14 an endowment contract) described in Section 408(a) or (b) of the
15 Internal Revenue Code of 1986, as amended, (IRA), (including,
16 effective for distributions after December 18, 2015, a SIMPLE IRA
17 but only if such contribution occurs after the two-year period
18 described in Code Section 72(t)(6) and is made in accordance with
19 the Protecting Americans from Tax Hikes Act of 2015), or, effective
20 for distributions after December 31, 2007, to a Roth IRA, that is
21 established on behalf of such nonspouse designated beneficiary for
22 the purpose of receiving the distribution and that will be treated
23 as an inherited IRA pursuant to the provisions of Section 402(c)(11)
24 of the Internal Revenue Code of 1986, as amended. Also, in this

1 case, the determination of any required minimum distribution under
2 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
3 that is ineligible for rollover shall be made in accordance with
4 Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395. The required
5 minimum distribution rules of Section 401(a)(9)(B) (other than
6 clause iv thereof) of the Internal Revenue Code of 1986, as amended,
7 apply to the transferee IRA; and

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

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

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

22 2. The Distributee, after receiving the notice, affirmatively
23 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

1 account or individual retirement annuity (other than an endowment
2 contract) described in Section 408(a) or (b) of the Internal Revenue
3 Code of 1986, as amended (IRA), (including, effective for
4 distributions after December 18, 2015, a SIMPLE IRA but only if such
5 contribution occurs after the two-year period described in Section
6 72(t)(6) of the Internal Revenue Code of 1986, as amended, and is
7 made in accordance with the Protecting Americans from Tax Hikes Act
8 of 2015), or, effective for distributions after December 31, 2007,
9 to a Roth individual retirement account or annuity described in
10 Section 408A of the Internal Revenue Code of 1986, as amended (Roth
11 IRA), that is established on behalf of such designated individual
12 for the purpose of receiving the distribution. If such transfer is
13 made, then:

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

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

1 3. The required minimum distribution rules of Section
2 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue
3 Code of 1986, as amended, apply to the transferee IRA.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 SECTION 4. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

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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4 COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND
5 PENSIONS, dated 02/14/2017 - DO PASS, As Coauthored.
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January 9, 2017

Representative Randy McDaniel
Room 438

Re: RBH No. 5125

RBH No. 5125 contains language allowing rollovers from the Police Pension and Retirement System to a SIMPLE IRA.

RBH No. 5125 is a non fiscal bill as defined by the Oklahoma Pension Legislation Analysis Act because the amendment does not contain a benefit increase nor create liability.

I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Thomas E. Cummins