HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1706 By: McDaniel of the House

and

Quinn of the Senate

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 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 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. As used in this section:

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;

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 2-303.3 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 Code Section 72(t)(6) 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 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 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 includable 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 47 O.S. 2011, Section 2-305.1B, as amended by Section 3, Chapter 52, O.S.L. 2012 (47 O.S. Supp. 2016, Section 2-305.1B), is amended to read as follows:

Section 2-305.1B 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 Oklahoma Law Enforcement Retirement 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 Board shall promulgate such rules as are necessary to implement the provisions of this section.

SECTION 3. 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.

COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND PENSIONS, dated 02/23/2017 - DO PASS, As Amended and Coauthored.