

SENATE FLOOR VERSION

April 3, 2017

ENGROSSED HOUSE
BILL NO. 1706

By: McDaniel of the House

and

Quinn of the Senate

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

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

5 B. As used in this section:

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

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

22 (1) to an individual retirement account or annuity
23 described in Section 408(a) or (b) of the
24 Internal Revenue Code of 1986, as amended, or

1 (2) in a direct trustee-to-trustee transfer, to a
2 qualified trust which is part of a defined
3 contribution plan that agrees to separately
4 account for amounts so transferred, 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, and

9 b. on or after January 1, 2007:

10 (1) to an individual retirement account or annuity
11 described in Section 408(a) or (b) of the
12 Internal Revenue Code of 1986, as amended, or

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

23 Effective for distributions after December 31, 2007, such after-
24 tax portion may also be directly transferred to a Roth individual

1 retirement account or annuity described in Section 408A of the
2 Internal Revenue Code of 1986, as amended, ("Roth IRA"), subject to
3 any limitations described in Section 408A(c) of the Internal Revenue
4 Code of 1986, as amended;

5 2. "Eligible Retirement Plan" means an individual retirement
6 account described in Section 408(a) of the Internal Revenue Code of
7 1986, as amended, an individual retirement annuity described in
8 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
9 annuity plan described in Section 403(a) of the Internal Revenue
10 Code of 1986, as amended, or a qualified trust described in Section
11 401(a) of the Internal Revenue Code of 1986, as amended, that
12 accepts the Distributee's Eligible Rollover Distribution. Effective
13 January 1, 2002, an Eligible Retirement Plan shall also mean an
14 annuity contract described in Section 403(b) of the Internal Revenue
15 Code of 1986, as amended, and an eligible plan under Section 457(b)
16 of the Internal Revenue Code of 1986, as amended, which is
17 maintained by a state, political subdivision of a state, or any
18 agency or instrumentality of a state or political subdivision of a
19 state and which agrees to separately account for amounts transferred
20 into such plan from the System. Effective for distributions after
21 December 31, 2007, an Eligible Retirement Plan includes a Roth IRA,
22 subject to any limitations under Section 408A(c) of the Internal
23 Revenue Code of 1986, as amended. Effective for distributions after
24 December 18, 2015, an Eligible Retirement Plan includes a SIMPLE IRA

1 in accordance with Section 408(p)(1)(B) of the Internal Revenue Code
 2 of 1986, as amended, for purposes of a rollover contribution to such
 3 SIMPLE IRA, but only if such rollover contribution is made after
 4 December 18, 2015, and only if such rollover contribution occurs
 5 after the two-year period described in Section 72(t)(6) of the
 6 Internal Revenue Code of 1986, as amended;

7 3. "Distributee" means an employee or former employee. In
 8 addition, the employee's or former employee's surviving spouse and
 9 the employee's or former employee's spouse or former spouse who is
 10 the alternate payee under a qualified domestic order, as defined in
 11 subsection B of Section 2-303.3 of this title, are Distributees with
 12 regard to the interest of the spouse or the former spouse.

13 ~~Effective for distributions after December 31, 2006, a~~ A Distributee
 14 also includes the member's nonspouse designated beneficiary (and
 15 certain trusts described in Section 402(c)(11)(B) of the Internal
 16 Revenue Code of 1986, as amended), pursuant to Section 401(a)(9)(E)
 17 of the Internal Revenue Code of 1986, as amended, who may elect any
 18 portion of a payment to be made in a Direct Rollover only to ~~a~~
 19 ~~traditional~~ an individual retirement account or annuity (other than
 20 an endowment contract) described in Section 408(a) or (b) of the
 21 Internal Revenue Code of 1986, as amended, ("IRA"), ~~including,~~
 22 effective for distributions after December 18, 2015, a SIMPLE IRA,
 23 but only if such contribution occurs after the two-year period
 24 described in Code Section 72(t)(6) and is made in accordance with

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

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

16 C. At least thirty (30) days before and, effective for years
17 beginning after December 31, 2006, not more than one hundred eighty
18 (180) days before the date of distribution, the Distributee (other
19 than a nonspouse designated beneficiary prior to July 1, 2010) must
20 be provided with a notice of rights which satisfies Section 402(f)
21 of the Internal Revenue Code of 1986, as amended, as to rollover
22 options and tax effects. Such distribution may commence less than
23 thirty (30) days after the notice is given, provided that:
24

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

5 2. The Distributee, after receiving the notice, affirmatively
 6 elects a distribution.

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

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

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

23 Section 2-305.1B A. An individual who has been designated,
 24 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of

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

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

1 December 31, 2009, the transfer is treated as an eligible rollover
2 distribution;

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

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

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

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

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

20 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
21 April 3, 2017 - DO PASS
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