

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1119

By: McDaniel

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:

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

1 Distributee, including a nonspouse designated beneficiary, to the
2 extent permitted under paragraph 3 of subsection B of this section,
3 may elect, at the time and in the manner prescribed by the Oklahoma
4 Police Pension and Retirement Board, to have any portion of an
5 Eligible Rollover Distribution paid directly to an Eligible
6 Retirement Plan specified by the Distributee in a Direct Rollover.

7 B. For purposes of this section, the following definitions
8 shall apply:

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

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

- 1 (1) to an individual retirement account or annuity
2 described in Section 408(a) or (b) of the
3 Internal Revenue Code of 1986, as amended, or
4 (2) in a direct trustee-to-trustee transfer, to a
5 qualified trust which is part of a defined
6 contribution plan that agrees to separately
7 account for amounts so transferred, including
8 separately accounting for the portion of such
9 distribution which is includable in gross income
10 and the portion of such distribution which is not
11 so includable, and

12 b. on or after January 1, 2007:

- 13 (1) to an individual retirement account or annuity
14 described in Section 408(a) or (b) of the
15 Internal Revenue Code of 1986, as amended, or
16 (2) in a direct trustee-to-trustee transfer, to a
17 qualified trust or an annuity contract described
18 in Section 403(b) of the Internal Revenue Code of
19 1986, as amended, and such trust or contract
20 provides for separate accounting for amounts so
21 transferred (and earnings thereon), including
22 separately accounting for the portion of such
23 distribution which is includable in gross income
24

1 and the portion of such distribution which is not
2 so includable.

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

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

20 2. "Eligible Retirement Plan" means an individual retirement
21 account described in Section 408(a) of the Internal Revenue Code of
22 1986, as amended, an individual retirement annuity described in
23 Section 408(b) of the Internal Revenue Code of 1986, as amended, an
24 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

1 the alternate payee under a qualified domestic order, as defined in
2 subsection B of Section 50-124 of this title, are Distributees with
3 regard to the interest of the spouse or the former spouse.
4 ~~Effective for distributions after December 31, 2006, a~~ A Distributee
5 also includes the member's nonspouse designated beneficiary (and
6 certain trusts described in Section 402(c)(11)(B) of the Internal
7 Revenue Code of 1986, as amended), pursuant to Section 401(a)(9)(E)
8 of the Internal Revenue Code of 1986, as amended, who may elect any
9 portion of a payment to be made in a Direct Rollover only to a
10 ~~traditional~~ an individual retirement account or annuity (other than
11 an endowment contract) described in Section 408(a) or (b) of the
12 Internal Revenue Code of 1986, as amended, (IRA), (including,
13 effective for distributions after December 18, 2015, a SIMPLE IRA
14 but only if such contribution occurs after the two-year period
15 described in Code Section 72(t)(6) and is made in accordance with
16 the Protecting Americans from Tax Hikes Act of 2015), or, effective
17 for distributions after December 31, 2007, to a Roth IRA, that is
18 established on behalf of such nonspouse designated beneficiary for
19 the purpose of receiving the distribution and that will be treated
20 as an inherited IRA pursuant to the provisions of Section 402(c)(11)
21 of the Internal Revenue Code of 1986, as amended. Also, in this
22 case, the determination of any required minimum distribution under
23 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
24 that is ineligible for rollover shall be made in accordance with

1 Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395. The required
2 minimum distribution rules of Section 401(a)(9)(B) (other than
3 clause iv thereof) of the Internal Revenue Code of 1986, as amended,
4 apply to the transferee IRA; and

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

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

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

19 2. The Distributee, after receiving the notice, affirmatively
20 elects a distribution.

21 D. For distributions made after December 31, 2006, but prior to
22 July 1, 2010, a distribution with respect to a nonspouse designated
23 beneficiary shall be made in accordance with Notice 2007-7, Q&A 15,
24 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

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

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

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

21 3. The required minimum distribution rules of Section
22 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue
23 Code of 1986, as amended, apply to the transferee IRA.

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

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

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

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

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

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

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

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

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

23 1. Be responsible for the transmittal of communications from
24 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.

56-1-5125 MAH 01/09/17

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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

Thomas E. Cummins, MAAA