

## STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1705

By: McDaniel

AS INTRODUCED

An Act relating to the Oklahoma Firefighters Pension and Retirement System; amending 11 O.S. 2011, Section 49-106.3, as last amended by Section 2, Chapter 367, O.S.L. 2015 (11 O.S. Supp. 2016, Section 49-106.3), which relates to distributions from the retirement plan; modifying provisions related to certain eligible rollover distributions; defining terms; providing for treatment of certain mandatory distributions occurring on or after designated date; amending 11 O.S. 2011, Section 49-106.4, as amended by Section 7, Chapter 384, O.S.L. 2012 (11 O.S. Supp. 2016, Section 49-106.4), which relates to certain transfers; modifying provisions related to certain distributions; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 49-106.3, as last amended by Section 2, Chapter 367, O.S.L. 2015 (11 O.S. Supp. 2016, Section 49-106.3), is amended to read as follows:

Section 49-106.3 A. For distributions made on or after January 1, 2002, and notwithstanding any provision of the System to the contrary that would otherwise limit a Distributee's election hereunder, a Distributee, including a nonspouse designated

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

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

8 1. "Eligible Rollover Distribution" means any distribution of  
9 all or any portion of the balance to the credit of the Distributee,  
10 except that an Eligible Rollover Distribution does not include any  
11 distribution that is one of a series of substantially equal periodic  
12 payments (not less frequently than annually) made for the life (or  
13 life expectancy) of the Distributee or the joint lives (or life  
14 expectancies) of the Distributee and the Distributee's designated  
15 beneficiary, or for a specified period of ten (10) years or more;  
16 any distribution to the extent such distribution is required under  
17 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;  
18 and the portion of any distribution that is not includable in gross  
19 income. A portion of a distribution shall not fail to be an  
20 Eligible Rollover Distribution merely because the portion consists  
21 of after-tax member contributions or any other distribution which  
22 are not includable in gross income. However, such portion may be  
23 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 a 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  
7 any limitations described in Section 408A(c) of the Internal Revenue  
8 Code of 1986, as amended;

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

1 December 31, 2007, an Eligible Retirement Plan includes a Roth IRA,  
2 subject to any limitations described in Section 408A(c) of the  
3 Internal Revenue Code of 1986, as amended. Effective for  
4 distributions after December 18, 2015, an Eligible Retirement Plan  
5 includes a SIMPLE IRA in accordance with Section 408(p)(1)(B) of the  
6 Internal Revenue Code of 1986, as amended, for purposes of a  
7 rollover contribution to such SIMPLE IRA, but only if such rollover  
8 contribution is made after December 18, 2015, and only if such  
9 rollover contribution occurs after the two-year period described in  
10 Section 72(t)(6) of the Internal Revenue Code of 1986, as amended;

11 3. "Distributee" means a member whether or not the member is an  
12 active firefighter. In addition, the member's surviving spouse and  
13 the member's spouse or former spouse who is an alternate payee under  
14 a qualified domestic order, as provided in subsection B of Section  
15 49-126 of this title, are Distributees with regard to the interest  
16 of the spouse or former spouse. ~~Effective for distributions after~~  
17 ~~December 31, 2006, a~~ A Distributee also includes the member's  
18 nonspouse designated beneficiary, and certain trusts described in  
19 Section 402(c)(11)(B) of the Internal Revenue Code of 1986, as  
20 amended, pursuant to Section 401(a)(9)(E) of the Internal Revenue  
21 Code of 1986, as amended, who may elect any portion of a payment to  
22 be made in a Direct Rollover only to ~~a traditional~~ an individual  
23 retirement account or annuity (other than an endowment contract)  
24 described in Section 408(a) or (b) of the Internal Revenue Code of

1 1986, as amended, (IRA), (including, effective for distributions  
2 after December 18, 2015, a SIMPLE IRA but only if such contribution  
3 occurs after the two-year period described in Code Section 72(t)(6)  
4 and is made in accordance with the Protecting Americans from Tax  
5 Hikes Act of 2015) or, effective for distributions after December  
6 31, 2007, to a Roth IRA, that is established on behalf of such  
7 nonspouse designated beneficiary for the purpose of receiving the  
8 distribution and that will be treated as an inherited IRA pursuant  
9 to the provisions of Section 402(c)(11) of the Internal Revenue Code  
10 of 1986, as amended. Also, in this case, the determination of any  
11 required minimum distribution under Section 401(a)(9) of the  
12 Internal Revenue Code of 1986, as amended, that is ineligible for  
13 rollover shall be made in accordance with Notice 2007-7, Q&A 17 and  
14 18, 2007-5 Internal Revenue Bulletin 395. The required minimum  
15 distribution rules of Section 401(a)(9)(B)(other than clause iv  
16 thereof) of the Internal Revenue Code of 1986, as amended, apply to  
17 the transferee IRA; ~~and~~

18 4. "Direct Rollover" means a payment by the System to the  
19 Eligible Retirement Plan specified by the Distributee, or in the  
20 case of an automatic rollover, the individual retirement plan that  
21 the State Board designates; and

22 5. "Mandatory Distribution" means a distribution that is an  
23 Eligible Rollover Distribution subject to Section 401(a)(31) of the  
24 Internal Revenue Code of 1986, as amended, and is made without the

1 member's consent to a member before the member attains the later of  
2 age sixty-two (62) or the member's normal retirement date. A  
3 distribution to a surviving spouse, alternate payee, or a  
4 distribution made upon a member's death is not a Mandatory  
5 Distribution for purposes of the automatic rollover requirements of  
6 Section 401(a)(31)(B) of the Internal Revenue Code of 1986, as  
7 amended.

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

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

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

22 D. For distributions made after December 31, 2006, but prior to  
23 July 1, 2010, a distribution with respect to a nonspouse designated  
24 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, the guidance under IRS Notice 2014-54 shall be followed 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.

F. In the event of a Mandatory Distribution greater than One Thousand Dollars (\$1,000.00) made on or after June 28, 2018, if the member does not elect to have such distribution paid directly to an Eligible Retirement Plan specified by the member in a Direct Rollover or to receive the distribution directly, then the State Board shall pay the distribution in a Direct Rollover to an individual retirement plan designated by the State Board. For purposes of determining whether a Mandatory Distribution is greater than One Thousand Dollars (\$1,000.00), the portion of the member's distribution attributable to any rollover contribution is included.

SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-106.4, as amended by Section 7, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2016, Section 49-106.4), is amended to read as follows:



1       Section 49-106.4 A. An individual who has been designated,  
2 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of  
3 1986, as amended, as the beneficiary of a deceased member and who is  
4 not the surviving spouse of the member, may elect, in accordance  
5 with Section 402(c)(11) of the Internal Revenue Code of 1986, as  
6 amended, to have a direct trustee-to-trustee transfer of any portion  
7 of such beneficiary's distribution from the Oklahoma Firefighters  
8 Pension and Retirement System ~~after December 31, 2006,~~ made only to  
9 ~~a traditional~~ an individual retirement account or individual  
10 retirement annuity (other than an endowment contract) described in  
11 Section 408(a) or (b) of the Internal Revenue Code of 1986, as  
12 amended (IRA) (including, effective for distributions after December  
13 18, 2015, a SIMPLE IRA but only if such contribution occurs after  
14 the two-year period described in Section 72(t)(6) of the Internal  
15 Revenue Code of 1986, as amended, and is made in accordance with the  
16 Protecting Americans from Tax Hikes Act of 2015), or, effective for  
17 distributions after December 31, 2007, to a Roth individual  
18 retirement account or annuity described in Section 408A of the  
19 Internal Revenue Code of 1986, as amended (Roth IRA), that is  
20 established on behalf of such designated individual for the purpose  
21 of receiving the distribution. If such transfer is made then:

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

1 Revenue Code of 1986, as amended. For plan years beginning after  
2 December 31, 2009, the transfer is treated as an eligible rollover  
3 distribution;

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

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

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

15 C. The Oklahoma Firefighters Pension and Retirement Board shall  
16 promulgate such rules as are necessary to implement the provisions  
17 of this section.

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

22  
23 56-1-6673 MAH 01/18/17  
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January 19, 2017

Representative Randy McDaniel  
Room 438

Re: RBH No. 6673

RBH No. 6673 contains IRS compliance language concerning distributions from the Oklahoma Firefighters Pension and Retirement System.

RBH No. 6673 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