

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

CONFERENCE COMMITTEE  
SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 1002

By: McDaniel (Randy) and Wood  
of the House

and

Brinkley of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Firefighters Pension and Retirement System; amending 11 O.S. 2011, Section 49-100.7, as amended by Section 2, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2014, Section 49-100.7), which relates to the Board; requiring Board to develop certain procedures; amending 11 O.S. 2011, Section 49-106.3, as amended by Section 6, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2014, Section 49-106.3), which relates to definition; updating language to reflect current Income Tax Regulations, Internal Revenue Code and Internal Revenue Service Notice; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 49-100.7, as amended by Section 2, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2014, Section 49-100.7), is amended to read as follows:

1 Section 49-100.7 A. The State Board shall be responsible for  
2 the policies and rules for the general administration of the System,  
3 subject to the provisions of this article.

4 B. The State Board shall establish rules and regulations for  
5 the administration of the System and for the transaction of its  
6 business consistent with law, which rules and regulations shall be  
7 filed with the Secretary of State.

8 C. The State Board shall be responsible for the installation or  
9 provision of a complete and adequate system of accounts and records.

10 D. All meetings of the State Board shall be open to the public.  
11 The State Board shall keep a record of its proceedings.

12 E. The State Board may adopt all necessary actuarial tables to  
13 be used in the operation of the System as recommended by the actuary  
14 and may compile such additional data as may be necessary for  
15 required actuarial valuation calculations.

16 F. All decisions of the State Board as to questions of fact  
17 shall be final and conclusive on all persons except for the right of  
18 review as provided by law and except for fraud or such gross mistake  
19 of fact as to have effect equivalent to fraud.

20 G. The State Board shall take all necessary action upon  
21 applications for pensions, disability benefits, refund of  
22 accumulated contributions and shall take action on all other matters  
23 deemed necessary by the State Board, including bringing actions for  
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1 declaratory relief in the district courts in the state to enforce  
2 the provisions of applicable state law.

3 H. On or after July 1, 2011, the State Board may permit,  
4 effective for applicable notices, elections and consents provided or  
5 made for a member, beneficiary, alternate payee or individual  
6 entitled to benefits under the System, the use of electronic media  
7 to provide such applicable notices and make such elections and  
8 consents as described in Section 1.401(a)-21 of the Income Tax  
9 Regulations.

10 I. The State Board shall develop such procedures and may  
11 require such information from the distributing plan as it deems  
12 necessary to reasonably conclude that a potential rollover  
13 contribution is a valid rollover contribution under Section  
14 1.401(a)(31)-1, Q&A-14(b)(2), of the Income Tax Regulations.

15 SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-106.3, as  
16 amended by Section 6, Chapter 364, O.S.L. 2012 (11 O.S. Supp. 2014,  
17 Section 49-106.3), is amended to read as follows:

18 Section 49-106.3 A. For distributions made on or after January  
19 1, 2002, and notwithstanding any provision of the System to the  
20 contrary that would otherwise limit a Distributee's election  
21 hereunder, a Distributee, including a nonspouse designated  
22 beneficiary, to the extent permitted under paragraph 3 of subsection  
23 B of this section, may elect, at the time and in the manner  
24 prescribed by the State Board, to have any portion of an Eligible

1 Rollover Distribution paid directly to an Eligible Retirement Plan  
2 specified by the Distributee in a Direct Rollover.

3 B. For purposes of this section, the following definitions  
4 shall apply:

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

20 (a) from January 1, 2002, through December 31, 2006:

21 (1) to an individual retirement account or annuity  
22 described in Section 408(a) or (b) of the  
23 Internal Revenue Code of 1986, as amended, or  
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1 (2) in a direct trustee-to-trustee transfer, to a  
2 qualified trust which is a 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 described in Section 408A(c) of the  
23 Internal Revenue Code of 1986, as amended;

1       3. "Distributee" means a member whether or not the member is an  
2 active firefighter. In addition, the member's surviving spouse and  
3 the member's spouse or former spouse who is an alternate payee under  
4 a qualified domestic order, as provided in subsection B of Section  
5 49-126 of this title, are Distributees with regard to the interest  
6 of the spouse or former spouse. Effective for distributions after  
7 December 31, 2006, a Distributee also includes the member's  
8 nonspouse designated beneficiary, and certain trusts described in  
9 Section 402(c)(11)(B) of the Internal Revenue Code of 1986, as  
10 amended, pursuant to Section 401(a)(9)(E) of the Internal Revenue  
11 Code of 1986, as amended, who may elect any portion of a payment to  
12 be made in a Direct Rollover only to a traditional individual  
13 retirement account or annuity (other than an endowment contract)  
14 described in Section 408(a) or (b) of the Internal Revenue Code of  
15 1986, as amended, (IRA), or, effective for distributions after  
16 December 31, 2007, to a Roth IRA, that is established on behalf of  
17 such nonspouse designated beneficiary for the purpose of receiving  
18 the distribution and that will be treated as an inherited IRA  
19 pursuant to the provisions of Section 402(c)(11) of the Internal  
20 Revenue Code of 1986, as amended. Also, in this case, the  
21 determination of any required minimum distribution under Section  
22 401(a)(9) of the Internal Revenue Code of 1986, as amended, that is  
23 ineligible for rollover shall be made in accordance with Notice  
24 2007-7, Q&A 17 and 18, 2007-5 Internal Revenue Bulletin 395. The

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

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

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

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

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

20 D. For distributions made after December 31, 2006, but prior to  
21 July 1, 2010, a distribution with respect to a nonspouse designated  
22 beneficiary shall be made in accordance with Notice 2007-7, Q&A 15,  
23 2007-5 Internal Revenue Bulletin 395. Effective for plan years  
24 beginning after December 31, 2009, a distribution with respect to a



1 nonspouse designated beneficiary shall be subject to Sections  
2 401(a) (31), 402(f) and 3405(c) of the Internal Revenue Code of 1986,  
3 as amended.

4 E. Effective for distributions after December 31, 2014, the  
5 guidance under IRS Notice 2014-54 shall be followed for purposes of  
6 determining the portion of a disbursement of benefits from the  
7 System to a Distributee that is not includable in gross income under  
8 Section 72 of the Internal Revenue Code of 1986, as amended.

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

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