

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1705

By: McDaniel

COMMITTEE SUBSTITUTE

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 364, 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

1 hereunder, a Distributee, including a nonspouse designated
2 beneficiary, to the extent permitted under paragraph 3 of subsection
3 B of this section, may elect, at the time and in the manner
4 prescribed by the State Board, to have any portion of an Eligible
5 Rollover Distribution paid directly to an Eligible Retirement Plan
6 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 or any other distribution which
23 are not includable in gross income. However, such portion may be
24 transferred only:

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

2 (1) to an individual retirement account or annuity

3 described in Section 408(a) or (b) of the

4 Internal Revenue Code of 1986, as amended, or

5 (2) in a direct trustee-to-trustee transfer, to a

6 qualified trust which is a part of a defined

7 contribution plan that agrees to separately

8 account for amounts so transferred, including

9 separately accounting for the portion of such

10 distribution which is includable in gross income

11 and the portion of such distribution which is not

12 so includable, and

13 (b) on or after January 1, 2007:

14 (1) to an individual retirement account or annuity

15 described in Section 408(a) or (b) of the

16 Internal Revenue Code of 1986, as amended, or

17 (2) in a direct trustee-to-trustee transfer, to a

18 qualified trust or an annuity contract described

19 in Section 403(b) of the Internal Revenue Code of

20 1986, as amended, and such trust or contract

21 provides for separate accounting for amounts so

22 transferred (and earnings thereon), including

23 separately accounting for the portion of such

24 distribution which is includable in gross income

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) ~~7~~ (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,

1 2007-5 Internal Revenue Bulletin 395. Effective for plan years
2 beginning after December 31, 2009, a distribution with respect to a
3 nonspouse designated beneficiary shall be subject to Sections
4 401(a)(31), 402(f) and 3405(c) of the Internal Revenue Code of 1986,
5 as amended.

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

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

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

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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.

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