

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 ENGROSSED SENATE
5 BILL NO. 345

By: Brinkley of the Senate

6 and

7 McDaniel (Randy) of the
8 House

9 An Act relating to the Oklahoma Police Pension and
10 Retirement System; amending 11 O.S. 2011, Section 50-
11 111.4, which relates to the Oklahoma Police Pension
12 and Retirement Board; requiring Board to develop
13 certain procedures to comply with federal tax
14 regulations; amending 11 O.S. 2011, Section 50-114.2,
as amended by Section 4, Chapter 53, O.S.L. 2012 (11
O.S. Supp. 2014, Section 50-114.2), which relates to
rollover distributions; updating language to comply
with federal tax regulations; and declaring an
emergency.

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

17 SECTION 1. AMENDATORY 11 O.S. 2011, Section 50-111.4, is
18 amended to read as follows:

19 Section 50-111.4. A. The ~~State~~ Oklahoma Police Pension and
20 Retirement Board shall adopt rules for computation of the purchase
21 price for transferred credited service. These rules shall base the
22 purchase price for each year purchased on the actuarial cost of the
23 incremental projected benefits to be purchased. The purchase price
24 shall represent the present value of the incremental projected

1 benefits discounted according to the member's age at the time of
2 purchase. Incremental projected benefits shall be the difference
3 between the projected benefit ~~said~~ the member would receive without
4 purchasing the transferred credited service and the projected
5 benefit after purchase of the transferred credited service computed
6 as of the earliest age at which the member would be able to retire.
7 ~~Said~~ The computation shall assume an unreduced benefit and be
8 computed using interest and mortality assumptions consistent with
9 the actuarial assumptions adopted by the Board of Trustees for
10 purposes of preparing the annual actuarial evaluation.

11 B. In the event that the member is unable to pay the purchase
12 price provided for in this section by the due date, the ~~State~~
13 Oklahoma Police Pension and Retirement Board shall permit the
14 members to amortize the purchase price over a period not to exceed
15 sixty (60) months. ~~Said payments~~ Payments shall be made by payroll
16 deductions unless the ~~State~~ Oklahoma Police Pension and Retirement
17 Board permits an alternate payment source. The amortization shall
18 include interest in an amount not to exceed the actuarially assumed
19 interest rate adopted by the ~~State~~ Oklahoma Police Pension and
20 Retirement Board for investment earnings each year. Any member who
21 ceases to make payment, terminates, retires or dies before
22 completing the payments provided for in this section shall receive
23 prorated service credit for only those payments made, unless the
24 unpaid balance is paid by ~~said~~ the member, his or her estate or

1 successor in interest within six (6) months after ~~said~~ the member's
2 death, termination of employment or retirement, provided no
3 retirement benefits shall be payable until the unpaid balance is
4 paid, unless ~~said~~ the member or beneficiary affirmatively waives the
5 additional six-month period in which to pay the unpaid balance.
6 Notwithstanding anything herein to the contrary, lump-sum payments
7 for a transferred credited service purchase may be made by a
8 trustee-to-trustee transfer from a Code Section 403(b) annuity or
9 custodial account, an eligible deferred compensation plan described
10 in Code Section 457(b) which is maintained by an eligible employer
11 described in Code Section 457(e) (1) (A), and/or a Code Section 401(a)
12 qualified plan; or a direct rollover of tax-deferred funds from a
13 Code Section 403(b) annuity or custodial account, an eligible
14 deferred compensation plan described in Code Section 457(b) which is
15 maintained by an eligible employer described in Code Section
16 457(e) (1) (A), a Code Section 401(a) qualified plan, and/or a Code
17 Section 408(a) or 408(b) traditional or conduit Individual
18 Retirement Account or Annuity (IRA). The Oklahoma Police Pension
19 and Retirement Board shall develop such procedures and may require
20 such information from the distributing plan as it deems necessary to
21 reasonably conclude that a potential rollover contribution is a
22 valid rollover contribution under Section 1.401(a) (31)-1, Q&A-
23 14(b) (2), of the Income Tax Regulations. Roth IRAs and Coverdell
24 Education Savings Accounts shall not be used to purchase transferred

1 credited service. A member making installment payments shall have
 2 the option of making a cash lump-sum payment for the balance of the
 3 actuarial purchase price with interest due through the date of
 4 payment by a trustee-to-trustee transfer from a Code Section 403(b)
 5 annuity or custodial account, an eligible deferred compensation plan
 6 described in Code Section 457(b) which is maintained by an eligible
 7 employer described in Code Section 457(e) (1) (A), and/or a Code
 8 Section 401(a) qualified plan; or a direct rollover of tax-deferred
 9 funds from a Code Section 403(b) annuity or custodial account, an
 10 eligible deferred compensation plan described in Code Section 457(b)
 11 which is maintained by an eligible employer described in Code
 12 Section 457(e) (1) (A), a Code Section 401(a) qualified plan, and/or a
 13 Code Section 408(a) or 408(b) traditional or conduit Individual
 14 Retirement Account or Annuity (IRA). Roth IRAs and Coverdell
 15 Education Savings Accounts shall not be used to purchase transferred
 16 credited service. The State Board shall promulgate such rules as
 17 are necessary to implement the provisions of this subsection.

18 SECTION 2. AMENDATORY 11 O.S. 2011, Section 50-114.2, as
 19 amended by Section 4, Chapter 53, O.S.L. 2012 (11 O.S. Supp. 2014,
 20 Section 50-114.2), is amended to read as follows:

21 Section 50-114.2. A. This section applies to distributions
 22 made on or after January 1, 2002. Notwithstanding any provision of
 23 the Oklahoma Police Pension and Retirement System to the contrary
 24 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 ~~State~~
4 Oklahoma Police Pension and Retirement Board, to have any portion of
5 an 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
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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

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

15 3. "Distributee" means an employee or former employee. In
16 addition, the employee's or former employee's surviving spouse and
17 the employee's or former employee's spouse or former spouse who is
18 the alternate payee under a qualified domestic order, as defined in
19 subsection B of Section 50-124 of this title, are Distributees with
20 regard to the interest of the spouse or the former spouse.

21 Effective for distributions after December 31, 2006, a Distributee
22 also includes the member's nonspouse designated beneficiary (and
23 certain trusts described in Section 402(c)(11)(B) of the Internal
24 Revenue Code of 1986, as amended), pursuant to Section 401(a)(9)(E)

1 of the Internal Revenue Code of 1986, as amended, who may elect any
2 portion of a payment to be made in a Direct Rollover only to a
3 traditional individual retirement account or annuity (other than an
4 endowment contract) described in Section 408(a) or (b) of the
5 Internal Revenue Code of 1986, as amended, (IRA), or, effective for
6 distributions after December 31, 2007, to a Roth IRA, that is
7 established on behalf of such nonspouse designated beneficiary for
8 the purpose of receiving the distribution and that will be treated
9 as an inherited IRA pursuant to the provisions of Section 402(c)(11)
10 of the Internal Revenue Code of 1986, as amended. Also, in this
11 case, the determination of any required minimum distribution under
12 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
13 that is ineligible for rollover shall be made in accordance with
14 Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395. The required
15 minimum distribution rules of Section 401(a)(9)(B) (other than
16 clause iv thereof) of the Internal Revenue Code of 1986, as amended,
17 apply to the transferee IRA; and

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

20 C. At least thirty (30) days before and, effective for years
21 beginning after December 31, 2006, not more than one hundred eighty
22 (180) days before the date of distribution, the Distributee (other
23 than a nonspouse designated beneficiary prior to July 1, 2010) must
24 be provided with a notice of rights which satisfies Section 402(f)

1 of the Internal Revenue Code of 1986, as amended, as to rollover
2 options and tax effects. Such distribution may commence less than
3 thirty (30) days after the notice is given, provided that:

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

8 2. The Distributee, after receiving the notice, affirmatively
9 elects a distribution.

10 D. For distributions made after December 31, 2006, but prior to
11 July 1, 2010, a distribution with respect to a nonspouse designated
12 beneficiary shall be made in accordance with Notice 2007-7, Q&A 15,
13 2007-5 Internal Revenue Bulletin 395. Effective for plan years
14 beginning after December 31, 2009, a distribution with respect to a
15 nonspouse designated beneficiary shall be subject to Sections
16 401(a)(31), 402(f), and 3405(c) of the Internal Revenue Code of
17 1986, as amended.

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

23 SECTION 3. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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4 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, LABOR, AND RETIREMENT
5 LAWS, dated 03/25/2015 - DO PASS.

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