

1 ENGROSSED SENATE AMENDMENTS
TO

2 ENGROSSED HOUSE
3 BILL NO. 1002

By: McDaniel (Randy) and Wood
of the House

4 and

5 Brinkley of the Senate

6
7
8 An Act relating to the Oklahoma Firefighters Pension
9 and Retirement System; amending 11 O.S. 2011, Section
10 49-100.7, as amended by Section 2, Chapter 364,
11 O.S.L. 2012 (11 O.S. Supp. 2014, Section 49-100.7),
12 which relates to the Board; requiring Board to
13 develop certain procedures; amending 11 O.S. 2011,
14 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; providing an effective date; and declaring an
emergency.

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AMENDMENT NO. 1. Page 1, strike the title to read:

"[Oklahoma Firefighters Pension and Retirement
System - Board - definition - ~~effective date~~ -
emergency]"

1 Passed the Senate the 20th day of April, 2015.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2015.

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8 _____
9 Presiding Officer of the House
10 of Representatives

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9 49-100.7, as amended by Section 2, Chapter 364,
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12 develop certain procedures; amending 11 O.S. 2011,
13 Section 49-106.3, as amended by Section 6, Chapter
14 364, O.S.L. 2012 (11 O.S. Supp. 2014, Section 49-
15 106.3), which relates to definition; updating
16 language to reflect current Income Tax Regulations,
17 Internal Revenue Code and Internal Revenue Service
18 Notice; providing an effective date; and declaring an
19 emergency.

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

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

24 Section 49-100.7 A. The ~~State~~ Oklahoma Firefighters Pension
and Retirement System Board of Trustees shall be responsible for the
policies and rules for the general administration of the Oklahoma
Firefighters Pension and Retirement System, subject to the
provisions of this article.

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

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

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

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

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

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

23 H. On or after July 1, 2011, the State Board may permit,
24 effective for applicable notices, elections and consents provided or

1 made for a member, beneficiary, alternate payee or individual
2 entitled to benefits under the System, the use of electronic media
3 to provide such applicable notices and make such elections and
4 consents as described in Section 1.401(a)-21 of the Income Tax
5 Regulations.

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

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

14 Section 49-106.3 A. For distributions made on or after January
15 1, 2002, and notwithstanding any provision of the Oklahoma
16 Firefighters Pension and Retirement System to the contrary that
17 would otherwise limit a Distributee's election hereunder, a
18 Distributee, including a nonspouse designated beneficiary, to the
19 extent permitted under paragraph 3 of subsection B of this section,
20 may elect, at the time and in the manner prescribed by the State
21 Board, to have any portion of an Eligible Rollover Distribution paid
22 directly to an Eligible Retirement Plan specified by the Distributee
23 in a Direct Rollover.

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1 B. For purposes of this section, the following definitions
2 shall apply:

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

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

- 19 (1) to an individual retirement account or annuity
20 described in Section 408(a) or (b) of the
21 Internal Revenue Code of 1986, as amended, or
22 (2) in a direct trustee-to-trustee transfer, to a
23 qualified trust which is a part of a defined
24 contribution plan that agrees to separately

1 account for amounts so transferred, including
2 separately accounting for the portion of such
3 distribution which is includable in gross income
4 and the portion of such distribution which is not
5 so includable, and

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

7 (1) to an individual retirement account or annuity
8 described in Section 408(a) or (b) of the
9 Internal Revenue Code of 1986, as amended, or

10 (2) in a direct trustee-to-trustee transfer, to a
11 qualified trust or an annuity contract described
12 in Section 403(b) of the Internal Revenue Code of
13 1986, as amended, and such trust or contract
14 provides for separate accounting for amounts so
15 transferred (and earnings thereon), including
16 separately accounting for the portion of such
17 distribution which is includable in gross income
18 and the portion of such distribution which is not
19 so includable.

20 Effective for distributions after December 31, 2007, such after-
21 tax portion may also be directly transferred to a Roth individual
22 retirement account or annuity described in Section 408A of the
23 Internal Revenue Code of 1986, as amended, (Roth IRA), subject to
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1 any limitations described in Section 408A(c) of the Internal Revenue
2 Code of 1986, as amended;

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

22 3. "Distributee" means a member whether or not the member is an
23 active firefighter. In addition, the member's surviving spouse and
24 the member's spouse or former spouse who is an alternate payee under

1 a qualified domestic order, as provided in subsection B of Section
2 49-126 of this title, are Distributees with regard to the interest
3 of the spouse or former spouse. Effective for distributions after
4 December 31, 2006, a Distributee also includes the member's
5 nonspouse designated beneficiary, and certain trusts described in
6 Section 402(c)(11)(B) of the Internal Revenue Code of 1986, as
7 amended, pursuant to Section 401(a)(9)(E) of the Internal Revenue
8 Code of 1986, as amended, who may elect any portion of a payment to
9 be made in a Direct Rollover only to a traditional individual
10 retirement account or annuity (other than an endowment contract)
11 described in Section 408(a) or (b) of the Internal Revenue Code of
12 1986, as amended, (IRA), or, effective for distributions after
13 December 31, 2007, to a Roth IRA, that is established on behalf of
14 such nonspouse designated beneficiary for the purpose of receiving
15 the distribution and that will be treated as an inherited IRA
16 pursuant to the provisions of Section 402(c)(11) of the Internal
17 Revenue Code of 1986, as amended. Also, in this case, the
18 determination of any required minimum distribution under Section
19 401(a)(9) of the Internal Revenue Code of 1986, as amended, that is
20 ineligible for rollover shall be made in accordance with Notice
21 2007-7, Q&A 17 and 18, 2007-5 Internal Revenue Bulletin 395. The
22 required minimum distribution rules of Section 401(a)(9)(B) (other
23 than clause iv thereof) of the Internal Revenue Code of 1986, as
24 amended, apply to the transferee IRA; and

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

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

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

15 2. The Distributee, after receiving the notice, affirmatively
16 elects a distribution.

17 D. For distributions made after December 31, 2006, but prior to
18 July 1, 2010, a distribution with respect to a nonspouse designated
19 beneficiary shall be made in accordance with Notice 2007-7, Q&A 15,
20 2007-5 Internal Revenue Bulletin 395. Effective for plan years
21 beginning after December 31, 2009, a distribution with respect to a
22 nonspouse designated beneficiary shall be subject to Sections
23 401(a)(31), 402(f) and 3405(c) of the Internal Revenue Code of 1986,
24 as amended.

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

6 SECTION 3. This act shall become effective July 1, 2015.

7 SECTION 4. It being immediately necessary for the preservation
8 of the public peace, health and safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

11 Passed the House of Representatives the 4th day of March, 2015.

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13 _____
14 Presiding Officer of the House
of Representatives

15 Passed the Senate the ___ day of _____, 2015.

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18 _____
19 Presiding Officer of the Senate