

1 ENGROSSED SENATE  
2 BILL NO. 323

By: Barrington of the Senate

3 and

4 Wood of the House

5  
6 An Act relating to the Oklahoma Firefighters Pension  
7 and Retirement System; amending 11 O.S. 2011, Section  
8 49-100.7, as amended by Section 2, Chapter 364,  
9 O.S.L. 2012 (11 O.S. Supp. 2014, Section 49-100.7),  
10 which relates to the Board; requiring Board to  
11 develop certain procedures; amending 11 O.S. 2011,  
12 Section 49-106.3, as amended by Section 6, Chapter  
13 364, O.S.L. 2012 (11 O.S. Supp. 2014, Section 49-  
14 106.3), which relates to definition; updating  
15 language to reflect current Income Tax Regulations,  
16 Internal Revenue Code and Internal Revenue Service  
17 Notice; providing an effective date; and declaring an  
18 emergency.

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

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

23 Section 49-100.7. A. The ~~State~~ Oklahoma Firefighters Pension  
24 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  
15 January 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 I.R.S. Notice 2014-54 shall be followed for purposes  
3 of determining the portion of a disbursement of benefits from the  
4 System to a Distributee that is not includible 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 Senate the 18th day of February, 2015.

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13 \_\_\_\_\_  
14 Presiding Officer of the Senate

15 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
16 2015.

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19 Presiding Officer of the House  
20 of Representatives  
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