

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

ENGROSSED SENATE
BILL NO. 323

By: Barrington of the Senate

and

Wood of the House

**[Oklahoma Firefighters Pension and Retirement System
- updating language to reflect current Income Tax
Regulations, Internal Revenue Code and Internal
Revenue Service Notice - effective date -
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:

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

1 Firefighters Pension and Retirement System, subject to the
2 provisions of this article.

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

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

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

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

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

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

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

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

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

16 Section 49-106.3. A. For distributions made on or after
17 January 1, 2002, and notwithstanding any provision of the Oklahoma
18 Firefighters Pension and Retirement System to the contrary that
19 would otherwise limit a Distributee's election hereunder, a
20 Distributee, including a nonspouse designated beneficiary, to the
21 extent permitted under paragraph 3 of subsection B of this section,
22 may elect, at the time and in the manner prescribed by the State
23 Board, to have any portion of an Eligible Rollover Distribution paid
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1 directly to an Eligible Retirement Plan specified by the Distributee
2 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;

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

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

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

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15 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, LABOR, AND RETIREMENT
16 LAWS, dated 04/08/2015 - DO PASS, As Amended.

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