

THE HOUSE OF REPRESENTATIVES  
Tuesday, April 17, 2007

ENGROSSED  
**Senate Bill No. 674**  
**As Amended**

ENGROSSED SENATE BILL NO. 674 - By: NICHOLS AND BARRINGTON of the Senate and ARMES of the House.

[ retirement - Oklahoma Firefighters Pension and Retirement System -  
payment of certain health insurance premiums by deduction from certain  
monthly payments - codification - effective date -  
emergency ]

1 SECTION 1. AMENDATORY 11 O.S. 2001, Section 49-106, as last amended by  
2 Section 1, Chapter 203, O.S.L. 2005 (11 O.S. Supp. 2006, Section 49-106), is amended to  
3 read as follows:  
4 Section 49-106. A. Any firefighter who reaches the firefighter's normal retirement  
5 date shall be entitled, upon written request, to retire from such service and be paid from  
6 the System a monthly pension equal to the member's accrued retirement benefit;  
7 provided, that the pension shall cease during any period of time the member may  
8 thereafter serve for compensation in any municipal fire department in the state. If such  
9 a member is reemployed by a participating municipality in a position which is not  
10 covered by the System, retirement shall also include receipt by such member of in-service  
11 distributions from the System.

1           B. With respect to distributions under the System made for calendar years  
2 beginning on or after January 1, 2005, the System shall apply the minimum distribution  
3 incidental benefit requirements, incidental benefit requirements, and minimum  
4 distribution requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as  
5 amended, in accordance with the final regulations under Section 401(a)(9) of the Internal  
6 Revenue Code of 1986, as amended, which were issued in April 2002 and June 2004,  
7 notwithstanding any provision of the System to the contrary. With respect to  
8 distributions under the System made for calendar years beginning on or after January 1,  
9 2001 through December 31, 2004, the System shall apply the minimum distribution  
10 requirements and incidental benefit requirements of Section 401(a)(9) of the Internal  
11 Revenue Code of 1986, as amended, in accordance with the regulations under Section  
12 401(a)(9) of the Internal Revenue Code of 1986, as amended, which were proposed in  
13 January 2001, notwithstanding any provision of the System to the contrary. Effective  
14 July 1, 1989, notwithstanding any other provision contained herein to the contrary, in no  
15 event shall commencement of distribution of the accrued retirement benefit of a member  
16 be delayed beyond April 1 of the calendar year following the later of:

- 17           1. The calendar year in which the member reaches seventy and one-half (70 1/2)  
18 years of age; or  
19           2. The actual retirement date of the member.

20           C. Any member or beneficiary eligible to receive a monthly benefit from the System  
21 may make an election to waive all or a portion of monthly benefits.

1        D. If the requirements of Section 4 of this act are satisfied, a member who, by  
2 reason of attainment of normal retirement date or age, is separated from service as a  
3 public safety officer with the member's participating municipality, may elect to have  
4 payment made directly to the provider for qualified health insurance premiums by  
5 deduction from his or her monthly pension payment, after December 31, 2006, in  
6 accordance with Section 402(1) of the Internal Revenue Code of 1986, as amended.

7        SECTION 2.    AMENDATORY    11 O.S. 2001, Section 49-106.3, as amended by  
8 Section 5, Chapter 128, O.S.L. 2003 (11 O.S. Supp. 2006, Section 49-106.3), is amended to  
9 read as follows:

10        Section 49-106.3 A. For distributions made on or after January 1, 1993, and  
11 notwithstanding any provision of the System to the contrary that would otherwise limit a  
12 Distributee's election hereunder, a Distributee may elect, at the time and in the manner  
13 prescribed by the State Board, to have any portion of an Eligible Rollover Distribution  
14 paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct  
15 Rollover.

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

17        1. "Eligible Rollover Distribution" means any distribution of all or any portion of  
18 the balance to the credit of the Distributee, except that an Eligible Rollover Distribution  
19 does not include any distribution that is one of a series of substantially equal periodic  
20 payments (not less frequently than annually) made for the life (or life expectancy) of the  
21 Distributee or the joint lives (or life expectancies) of the Distributee and the Distributee's  
22 designated beneficiary, or for a specified period of ten (10) years or more; any distribution

1 to the extent such distribution is required under Section 401(a)(9) of the Internal  
2 Revenue Code of 1986, as amended; and the portion of any distribution that is not  
3 includable in gross income. ~~Provided;~~ provided, however, that, effective January 1, 2002,  
4 a portion of a distribution shall not fail to be an Eligible Rollover Distribution merely  
5 because the portion consists of after-tax member contributions which are not includable  
6 in gross income. However, such portion may be paid only ~~to:~~

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

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

11 (2) a qualified trust which is a part of a defined contribution plan  
12 described in Section 401(a) or 403(a) of the Internal Revenue  
13 Code of 1986, as amended, ~~that~~ and which agrees to separately  
14 account for amounts so transferred, including ~~separate~~  
15 separately accounting for the portion of such distribution which  
16 is includable in gross income and the portion of such distribution  
17 which is not so includable, and

18 (b) on or after January 1, 2007, to:

19 (1) an individual retirement account or annuity described in Section  
20 408(a) or (b) of the Internal Revenue Code of 1986, as amended,  
21 or

1                   (2)    a qualified trust described in Section 401(a) or 403(a) of the  
2                                   Internal Revenue Code of 1986, as amended, or an annuity  
3                                   contract described in Section 403(b) of the Internal Revenue  
4                                   Code of 1986, as amended, and such trust or annuity contract  
5                                   provides for separate accounting for amounts so transferred and  
6                                   earnings thereon, including separately accounting for the  
7                                   portion of such distribution which is includable in gross income  
8                                   and the portion of such distribution which is not so includable;

9           2. “Eligible Retirement Plan” means an individual retirement account described in  
10 Section 408(a) of the Internal Revenue Code of 1986, as amended, an individual  
11 retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986, as  
12 amended, an annuity plan described in Section 403(a) of the Internal Revenue Code of  
13 1986, as amended, or a qualified trust described in Section 401(a) of the Internal  
14 Revenue Code of 1986, as amended, that accepts the Distributee’s Eligible Rollover  
15 Distribution. Effective January 1, 2002, an Eligible Retirement Plan shall also mean an  
16 annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as  
17 amended, and an eligible plan under Section 457(b) of the Internal Revenue Code of  
18 1986, as amended, which is maintained by a state, political subdivision of a state, or any  
19 agency or instrumentality of a state or political subdivision of a state and which agrees to  
20 separately account for amounts transferred into such plan from the System. Effective  
21 January 1, 2002, the definition of Eligible Retirement Plan shall also apply in the case of  
22 a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate

1 payee pursuant to a qualified domestic order as defined in subsection B of Section 49-126  
2 of this title. An Eligible Retirement Plan does not include a Roth IRA under Section  
3 ~~408(a)~~(A) of the Internal Revenue Code of 1986, as amended;

4 3. "Distributee" means a member whether or not said member is an active  
5 firefighter. In addition, effective June 7, 1993, the member's surviving spouse and the  
6 member's spouse or former spouse who is an alternate payee under a qualified domestic  
7 order, as provided in subsection B of Section 49-126 of this title, are Distributees with  
8 regard to the interest of the spouse or former spouse; and

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

11 C. At least thirty (30) days before and, effective January 1, 2007, not less more  
12 ~~than ninety (90)~~ one hundred eighty (180) days before the date of distribution, the  
13 Distributee must be provided with a notice of rights which satisfies Section 402(f) of the  
14 Internal Revenue Code of 1986, as amended, as to rollover options and tax effects. Such  
15 distribution may commence less than thirty (30) days after the notice is given, provided  
16 that:

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

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

1 SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma  
2 Statutes as Section 49-106.4 of Title 11, unless there is created a duplication in  
3 numbering, reads as follows:

4 A. An individual who has been designated, pursuant to Section 401(a)(9)(E) of the  
5 Internal Revenue Code of 1986, as amended, as the beneficiary of a deceased member  
6 and who is not the surviving spouse of the member, may elect, in accordance with Section  
7 402(c)(11) of the Internal Revenue Code of 1986, as amended, and at the time and in the  
8 manner prescribed by the Oklahoma Firefighters Pension and Retirement Board, to have  
9 a direct trustee-to-trustee transfer of any portion of such beneficiary's lump-sum  
10 distribution from the Oklahoma Firefighters Pension and Retirement System after  
11 December 31, 2006, made to an individual retirement account or individual retirement  
12 annuity other than an endowment contract described in Section 408(a) or (b) of the  
13 Internal Revenue Code of 1986, as amended (IRA). If such transfer is made then:

14 1. The transfer is treated as an eligible rollover distribution for purposes of Section  
15 402(c)(11) of the Internal Revenue Code of 1986, as amended;

16 2. The transferee IRA is treated as an inherited individual retirement account or  
17 an inherited individual retirement annuity within the meaning of Section 408(d)(3)(C) of  
18 the Internal Revenue Code of 1986, as amended; and

19 3. The required minimum distribution rules of Section 401(a)(9)(B) other than  
20 clause iv of the Internal Revenue Code of 1986, as amended, apply to the transferee IRA.

21 B. A trust maintained for the benefit of one or more designated beneficiaries shall  
22 be treated in the same manner as a trust designated beneficiary.

1 C. The State Board shall promulgate such rules as are necessary to implement the  
2 provisions of this section.

3 SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma  
4 Statutes as Section 49-106.5 of Title 11, unless there is created a duplication in  
5 numbering, reads as follows:

6 A. A member who is an eligible retired public safety officer and who wishes to have  
7 direct payments made toward the member's qualified health insurance premiums from  
8 the member's monthly disability benefit or monthly pension payment must make a  
9 written election in accordance with Section 402(1) of the Internal Revenue Code of 1986,  
10 as amended, on the form provided by the Oklahoma Firefighters Pension and Retirement  
11 System, as follows:

12 1. The election must be made after the member separates from service as a public  
13 safety officer with the member's participating municipality;

14 2. The election shall only apply to distributions from the System after December 31,  
15 2006, and to amounts not yet distributed to the eligible retired public safety officer;

16 3. Direct payments for an eligible retired public safety officer's qualified health  
17 insurance premiums can only be made from the member's monthly disability benefit or  
18 monthly pension payment from the System and cannot be made from the Deferred  
19 Option Plan; and

20 4. The aggregate amount of the exclusion from an eligible retired public safety  
21 officer's gross income is Three Thousand Dollars (\$3,000.00) per calendar year.

22 B. As used in this section:



1           1. "Public safety officer" means a member serving a public agency in an official  
2 capacity, with or without compensation, as a law enforcement officer, firefighter,  
3 chaplain, or as a member of a rescue squad or ambulance crew;

4           2. "Eligible retired public safety officer" means a member who, by reason of  
5 disability or attainment of normal retirement date or age, is separated from service as a  
6 public safety officer with the member's participating municipality; and

7           3. "Qualified health insurance premiums" means premiums for coverage for the  
8 eligible retired public safety officer, the eligible retired public safety officer's spouse, and  
9 dependents by an accident or health insurance plan or a qualified long-term care  
10 insurance contract. The health plan does not have to be sponsored by the eligible retired  
11 public safety officer's former participating municipality.

12           C. The Oklahoma Firefighters Pension and Retirement Board shall promulgate  
13 such rules as are necessary to implement the provisions of this section.

14           SECTION 5.    AMENDATORY    11 O.S. 2001, Section 49-109, as last amended by  
15 Section 13, Chapter 46, 2nd Extraordinary Session, O.S.L. 2006 (11 O.S. Supp. 2006,  
16 Section 49-109), is amended to read as follows:

17           Section 49-109. A. Whenever any firefighter serving in any capacity in a regularly  
18 constituted fire department of a municipality shall become so physically or mentally  
19 disabled while in, or in consequence of, the performance of the firefighter's duty as to  
20 prevent the effective performance of the firefighter's duties, the State Board may, upon  
21 the firefighter's written request, or without such request if the State Board deems it for  
22 the good of the department, retire the firefighter from active service, and if so retired,

1 shall direct that the firefighter be paid from the System a monthly pension equal to the  
2 greater of:

3 1. Fifty percent (50%) of the average monthly salary which was paid to the  
4 firefighter during the last thirty (30) months of the firefighter's service; or

5 2. Two and one-half percent (2 1/2%) of the firefighter's final average salary  
6 multiplied by the member's years of credited service, not to exceed thirty (30) years,  
7 provided such firefighter has completed twenty (20) or more years of credited service.

8 B. If the disability ceases within two (2) years from the date of the firefighter's  
9 disability retirement and before the firefighter's normal retirement date, the formerly  
10 disabled person shall be restored to active service at the salary attached to the rank the  
11 firefighter held at the time of the firefighter's disability retirement provided the  
12 firefighter is capable of performing the duties of a firefighter. Whenever such disability  
13 shall cease, such disability pension provided pursuant to paragraph 1 of subsection A of  
14 this section shall cease. If a firefighter participates in the Oklahoma Firefighters  
15 Deferred Option Plan pursuant to Section 49-106.1 of this title, the firefighter's disability  
16 pension provided pursuant to this subsection shall be reduced to account for the  
17 firefighter's participation in the Oklahoma Firefighters Deferred Option Plan.

18 C. Whenever any firefighter, who has served in any capacity in a regularly  
19 constituted fire department of a municipality of the state, and who has served less than  
20 the firefighter's normal retirement date, shall become so physically or mentally disabled  
21 from causes not arising in the line of duty as to prevent the effective performance of the  
22 firefighter's duties, the firefighter shall be entitled to a pension during the continuance of

1 said disability based upon the firefighter's service period which shall be fifty percent  
2 (50%) of the average monthly salary which was paid to the firefighter during the last  
3 sixty (60) months of the firefighter's service.

4 D. No firefighter shall accrue additional service time while receiving a disability  
5 pension; provided further, that nothing herein contained shall affect the eligibility of any  
6 firefighter to apply for and receive a retirement pension after the firefighter's normal  
7 retirement date; provided further, that no firefighter shall receive retirement benefits  
8 from the System during the time the firefighter is receiving disability benefits from the  
9 System. Any member or beneficiary eligible to receive a monthly benefit pursuant to this  
10 section may make an election to waive all or a portion of monthly benefits.

11 E. If the requirements of Section 4 of this act are satisfied, a member who, by  
12 reason of disability, is separated from service as a public safety officer with the member's  
13 participating municipality, may elect to have payment made directly to the provider for  
14 qualified health insurance premiums by deduction from his or her monthly disability  
15 benefit, after December 31, 2006, in accordance with Section 402(1) of the Internal  
16 Revenue Code of 1986, as amended.

17 SECTION 6. This act shall become effective July 1, 2007.

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

21 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND  
22 FINANCIAL SERVICES, dated 04-16-07 - DO PASS, As Amended.