**South Carolina General Assembly**

119th Session, 2011-2012

**A278, R323, H4967**

**STATUS INFORMATION**

General Bill

Sponsors: Ways and Means Committee

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Companion/Similar bill(s): 4898

Introduced in the House on March 8, 2012

Introduced in the Senate on March 27, 2012

Last Amended on June 21, 2012

Passed by the General Assembly on June 21, 2012

Governor's Action: June 26, 2012, Signed

Summary: SC Retirement System

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 3/8/2012 House Introduced, read first time, placed on calendar without reference ([House Journal‑page 13](file:///h%3A%5Chj%20archive%5C2012%5C03-08-12.docx))

 3/20/2012 House Requests for debate‑Rep(s). Merrill, McLeod, Quinn, Seller, Patrick, Herbkersman, Tallon, Brantley, Erickson, Brannon, Ott, Funderburk, Jefferson, King, Johnson, Parker, Allison, J.H. Neal, Skelton, Hiott, R.L. Brown, G.A. Brown, Anderson, Clyburn, Hosey, Branham, Hayes, Weeks, Hardwick, Horne, V.S. Moss, G.R. Smith, Alexander, Dillard, Munnerlyn, Bales, and Gilliard ([House Journal‑page 70](file:///h%3A%5Chj%20archive%5C2012%5C03-20-12.docx))

 3/21/2012 House Amended ([House Journal‑page 87](file:///h%3A%5Chj%20archive%5C2012%5C03-21-12.docx))

 3/21/2012 House Read second time ([House Journal‑page 87](file:///h%3A%5Chj%20archive%5C2012%5C03-21-12.docx))

 3/21/2012 House Roll call Yeas‑86 Nays‑27 ([House Journal‑page 91](file:///h%3A%5Chj%20archive%5C2012%5C03-21-12.docx))

 3/22/2012 House Read third time and sent to Senate ([House Journal‑page 52](file:///h%3A%5Chj%20archive%5C2012%5C03-22-12.docx))

 3/27/2012 Senate Introduced and read first time ([Senate Journal‑page 12](file:///h%3A%5Csj%20archive%5C2012%5C03-27-12.docx))

 3/27/2012 Senate Referred to Committee on **Finance** ([Senate Journal‑page 12](file:///h%3A%5Csj%20archive%5C2012%5C03-27-12.docx))

 5/4/2012 Senate Committee report: Favorable with amendment **Finance** ([Senate Journal‑page 1](file:///h%3A%5Csj%20archive%5C2012%5C05-04-12.docx))

 5/16/2012 Senate Committee Amendment Amended and Adopted ([Senate Journal‑page 86](file:///h%3A%5Csj%20archive%5C2012%5C05-16-12.docx))

 5/16/2012 Senate Read second time ([Senate Journal‑page 86](file:///h%3A%5Csj%20archive%5C2012%5C05-16-12.docx))

 5/16/2012 Senate Roll call Ayes‑39 Nays‑1 ([Senate Journal‑page 86](file:///h%3A%5Csj%20archive%5C2012%5C05-16-12.docx))

 5/17/2012 Scrivener's error corrected

 5/17/2012 Senate Read third time and returned to House with amendments ([Senate Journal‑page 7](file:///h%3A%5Csj%20archive%5C2012%5C05-17-12.docx))

 5/22/2012 House Debate adjourned until Wed., 05‑23‑12 ([House Journal‑page 27](file:///h%3A%5Chj%20archive%5C2012%5C05-22-12.docx))

 5/23/2012 House Debate adjourned until Tues., 05‑29‑12 ([House Journal‑page 35](file:///h%3A%5Chj%20archive%5C2012%5C05-23-12.docx))

 5/29/2012 House Debate adjourned ([House Journal‑page 31](file:///h%3A%5Chj%20archive%5C2012%5C05-29-12.docx))

 5/30/2012 House Senate amendment amended ([House Journal‑page 128](file:///h%3A%5Chj%20archive%5C2012%5C05-30-12.docx))

 5/30/2012 House Roll call Yeas‑113 Nays‑0

 5/30/2012 House Senate amendment amended

 5/30/2012 House Roll call Yeas‑104 Nays‑9

 5/30/2012 House Roll call Yeas‑56 Nays‑61 ([House Journal‑page 5](file:///h%3A%5Chj%20archive%5C2012%5C05-30-12.docx))

 5/30/2012 House Roll call Yeas‑113 Nays‑0

 5/30/2012 House Returned to Senate with amendments ([House Journal‑page 128](file:///h%3A%5Chj%20archive%5C2012%5C05-30-12.docx))

 5/31/2012 Senate Non‑concurrence in House amendment ([Senate Journal‑page 16](file:///h%3A%5Csj%20archive%5C2012%5C05-31-12.docx))

 5/31/2012 Senate Roll call Ayes‑0 Nays‑36 ([Senate Journal‑page 16](file:///h%3A%5Csj%20archive%5C2012%5C05-31-12.docx))

 5/31/2012 House House insists upon amendment and conference committee appointed Reps. Bingham, Merrill and Cobb‑Hunter ([House Journal‑page 5](file:///h%3A%5Chj%20archive%5C2012%5C05-31-12.docx))

 5/31/2012 Senate Conference committee appointed Setzler, Ryberg and Alexander

 6/20/2012 Senate Free conference powers granted ([Senate Journal‑page 67](file:///h%3A%5Csj%20archive%5C2012%5C06-20-12.docx))

 6/20/2012 Senate Roll call Ayes‑43 Nays‑0 ([Senate Journal‑page 67](file:///h%3A%5Csj%20archive%5C2012%5C06-20-12.docx))

 6/20/2012 Senate Free conference committee appointed Setzler, Ryberg, and Alexander ([Senate Journal‑page 67](file:///h%3A%5Csj%20archive%5C2012%5C06-20-12.docx))

 6/20/2012 House Free conference powers granted

 6/20/2012 House Free conference committee appointed Bingham, Merrill, Cobb‑Hunter

 6/21/2012 House Free conference report adopted

 6/21/2012 House Roll call Yeas‑88 Nays‑9

 6/21/2012 House Free conference committee appointed Bingham, Merrill, Cobb‑Hunter

 6/21/2012 Senate Additional Free Conference Powers Granted

 6/21/2012 Senate Roll call Ayes‑43 Nays‑0

 6/21/2012 Senate Free conference report adopted ([Senate Journal‑page 34](file:///h%3A%5Csj%20archive%5C2012%5C06-21-12.docx))

 6/21/2012 Senate Roll call Ayes‑43 Nays‑0 ([Senate Journal‑page 34](file:///h%3A%5Csj%20archive%5C2012%5C06-21-12.docx))

 6/21/2012 Senate Ordered enrolled for ratification ([Senate Journal‑page 34](file:///h%3A%5Csj%20archive%5C2012%5C06-21-12.docx))

 6/22/2012 Ratified R 323

 6/26/2012 Signed By Governor

 7/3/2012 Effective date See Act for Effective Date

 7/9/2012 Act No. 278

**VERSIONS OF THIS BILL**

[3/8/2012](file:///p%3A%5Cpprever%5C2011-12%5C4967_20120308.docx)

[3/8/2012-A](file:///p%3A%5Cpprever%5C2011-12%5C4967_20120308A.docx)

[3/21/2012](file:///p%3A%5Cpprever%5C2011-12%5C4967_20120321.docx)

[5/4/2012](file:///p%3A%5Cpprever%5C2011-12%5C4967_20120504.docx)

[5/16/2012](file:///p%3A%5Cpprever%5C2011-12%5C4967_20120516.docx)

[5/17/2012](file:///p%3A%5Cpprever%5C2011-12%5C4967_20120517.docx)

[5/30/2012](file:///p%3A%5Cpprever%5C2011-12%5C4967_20120530.docx)

[5/30/2012-A](file:///p%3A%5Cpprever%5C2011-12%5C4967_20120530A.docx)

[6/21/2012](file:///p%3A%5Cpprever%5C2011-12%5C4967_20120621.docx)

(A278, R323, H4967)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 9‑1‑1815 AND 9‑1‑1085 SO AS TO PROVIDE FOR ANNUAL INCREASES IN RETIREMENT ALLOWANCES PAID BY THE SOUTH CAROLINA RETIREMENT SYSTEM (SCRS) AND TO PHASE IN INCREASES IN EMPLOYER AND EMPLOYEE CONTRIBUTIONS TO SCRS AND PROVIDE FOR FURTHER CONTRIBUTION ADJUSTMENTS AFTER THE PHASE‑IN PERIOD; TO AMEND SECTION 9‑1‑10, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF SCRS, SO AS TO ADD CLASS THREE EMPLOYEES AS DEFINED AS INDIVIDUALS WITH AN EFFECTIVE DATE OF SYSTEM MEMBERSHIP AFTER JUNE 30, 2012, TO ADD DEFINITIONS APPLICABLE FOR THE ELIGIBILITY AND CALCULATION OF RETIREMENT BENEFITS FOR CLASS THREE MEMBERS, TO FURTHER DEFINE “EARNABLE COMPENSATION” WITH RESPECT TO OVERTIME PAY, AND TO REVISE THE REFERENCE TO THE GOVERNANCE OF SCRS; TO AMEND SECTIONS 9‑1‑1020, AS AMENDED, 9‑1‑1050, AND 9‑1‑1080, RELATING TO SCRS EMPLOYEE AND EMPLOYER CONTRIBUTIONS, SO AS TO CONFORM TO THE REVISED CONTRIBUTIONS SCHEDULE; TO AMEND SECTION 9‑1‑1140, AS AMENDED, RELATING TO ESTABLISHING SERVICE CREDIT TO SCRS, SO AS TO PROVIDE THAT PAYMENTS FOR SERVICE CREDIT MUST BE ACTUARIALLY NEUTRAL BASED ON THE MEMBER’S CURRENT AGE AND SERVICE CREDIT SUBJECT TO A STATUTORY MINIMUM PAYMENT AND PROVIDE THAT ADDITIONAL SERVICE CREDIT AT RETIREMENT BASED ON UNUSED ACCUMULATED SICK LEAVE APPLIES ONLY TO CLASS ONE AND CLASS TWO SCRS MEMBERS; TO AMEND SECTION 9‑1‑1510, AS AMENDED, RELATING TO ELIGIBILITY FOR RETIREMENT UNDER SCRS, SO AS TO PROVIDE THE RETIREMENT ELIGIBILITY REQUIREMENTS FOR CLASS THREE MEMBERS; TO AMEND SECTION 9‑1‑1515, AS AMENDED, RELATING TO SCRS EARLY RETIREMENT, SO AS TO LIMIT ELIGIBILITY TO CLASS ONE AND CLASS TWO SCRS MEMBERS; TO AMEND SECTIONS 9‑1‑1540, AS AMENDED, 9‑1‑1560, AS AMENDED, AND 9‑1‑1570, RELATING TO DISABILITY RETIREMENT UNDER SCRS, SO AS TO CONFORM ELIGIBILITY REQUIREMENTS FOR CLASS THREE MEMBERS, PROVIDE THAT ELIGIBILITY DETERMINATION FOR DISABILITY RETIREMENT APPLICATIONS RECEIVED AFTER DECEMBER 31, 2013, MUST BE BASED ON THE MEMBER QUALIFYING FOR SOCIAL SECURITY DISABILITY BENEFITS, PROVIDE FOR THE CALCULATION OF DISABILITY BENEFITS, AND CONFORM THE REVIEW FOR SOUTH CAROLINA RETIREMENT SYSTEM MEMBERS ON DISABILITY RETIREMENT OF THEIR DISABLED STATUS TO THE NEW ELIGIBILITY REQUIREMENTS; TO AMEND SECTION 9‑1‑1550, AS AMENDED, RELATING TO THE CALCULATION OF THE SCRS RETIREMENT BENEFIT, SO AS TO PROVIDE THE CALCULATION FOR CLASS THREE MEMBERS; TO AMEND SECTIONS 9‑1‑1650 AND 9‑1‑1660, BOTH AS AMENDED, RELATING TO RETURN OF CONTRIBUTIONS AND ELIGIBILITY FOR AN ANNUITY ON TERMINATION BEFORE RETIREMENT, SO AS TO CONFIRM THOSE PROVISIONS FOR CLASS THREE MEMBERS AND TO PROVIDE THAT THE PERSON NAMED BY AN SCRS MEMBER TO RECEIVE A RETURN OF THE MEMBER’S CONTRIBUTIONS ON THE MEMBER’S DEATH MAY ELECT TO RECEIVE AN ANNUITY IF THE DECEASED MEMBER WAS ELIGIBLE TO RETIRE AT THE TIME OF DEATH WHETHER OR NOT THE MEMBER WAS IN SERVICE; TO AMEND SECTION 9‑1‑1790, AS AMENDED, RELATING TO RETURN TO COVERED EMPLOYMENT BY A RETIRED SCRS MEMBER, SO AS TO INCREASE FROM FIFTEEN TO THIRTY DAYS THE BREAK IN SERVICE REQUIRED FOR SUCH A RETURN TO SERVICE WITHOUT A SUSPENSION OF RETIREMENT BENEFITS, TO PROVIDE THAT AFTER EARNING TEN THOUSAND DOLLARS IN A CALENDAR YEAR FROM A COVERED EMPLOYER, THE RETIREMENT ALLOWANCE OF THE SCRS MEMBER IS SUSPENDED FOR THE REMAINDER OF THE CALENDAR YEAR AND TO PROVIDE THOSE MEMBERS EXEMPT FROM THIS LIMIT; TO AMEND SECTION 9‑1‑2210, AS AMENDED, RELATING TO THE TEACHER AND EMPLOYEE RETENTION INCENTIVE PROGRAM (TERI), SO AS TO END TERI PARTICIPATION AFTER JUNE 30, 2018; TO REPEAL SECTIONS 9‑1‑1810 AND 9‑1‑2210 RELATING RESPECTIVELY TO ANNUAL ADJUSTMENTS IN SCRS RETIREMENT ALLOWANCES BASED ON INCREASES IN THE CONSUMER PRICE INDEX AND TO THE PROSPECTIVE REPEAL AFTER JUNE 30, 2018, OF TERI; BY ADDING SECTION 9‑9‑5 SO AS TO CLOSE THE RETIREMENT SYSTEM FOR MEMBERS OF THE GENERAL ASSEMBLY OF THE STATE OF SOUTH CAROLINA (SCGARS) TO MEMBERS OF THE GENERAL ASSEMBLY FIRST ELECTED AT OR AFTER THE 2012 GENERAL ELECTION AND TO PROVIDE THAT THESE PERSONS INSTEAD OF ENROLLING IN SCGARS INSTEAD SHALL JOIN SCRS OR THE STATE OPTIONAL RETIREMENT PROGRAM; TO AMEND SECTION 9‑9‑120, RELATING TO TRANSFER SERVICE AND MEMBER CONTRIBUTIONS FOR SCGARS, SO AS TO INCREASE THE MEMBER CONTRIBUTIONS FROM TEN TO ELEVEN PERCENT OF EARNABLE COMPENSATION; BY ADDING SECTIONS 9‑11‑312 AND 9‑11‑225 SO AS TO PROVIDE FOR ANNUAL INCREASES IN RETIREMENT ALLOWANCES PAID BY THE SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM (SCPORS) AND TO PHASE IN INCREASES IN EMPLOYER AND EMPLOYEE CONTRIBUTIONS AND PROVIDE FOR FURTHER CONTRIBUTION ADJUSTMENTS AFTER THE PHASE‑IN PERIOD; TO AMEND SECTION 9‑11‑10, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF SCPORS, SO AS TO ADD CLASS THREE EMPLOYEES DEFINED AS INDIVIDUALS WITH AN EFFECTIVE DATE OF SYSTEM MEMBERSHIP AFTER JUNE 30, 2012, TO ADD DEFINITIONS APPLICABLE FOR THE ELIGIBILITY AND CALCULATION OF BENEFITS FOR CLASS THREE MEMBERS AND TO REVISE THE REFERENCE TO THE GOVERNANCE OF SCPORS; TO AMEND SECTION 9‑11‑50, AS AMENDED, RELATING TO ESTABLISHING SERVICE CREDIT IN SCPORS, SO AS TO PROVIDE THAT PAYMENTS FOR SERVICE CREDIT MUST BE ACTUARIALLY NEUTRAL BASED ON THE MEMBER’S CURRENT AGE AND SERVICE CREDIT SUBJECT TO A STATUTORY MINIMUM PAYMENT AND PROVIDE THAT ADDITIONAL SERVICE CREDIT AT RETIREMENT BASED ON ACCRUED UNUSED SICK LEAVE APPLIES ONLY TO CLASS ONE AND CLASS TWO SCPORS MEMBERS; TO AMEND SECTION 9‑11‑60, AS AMENDED, RELATING TO ELIGIBILITY FOR RETIREMENT FOR SCPORS MEMBERS, SO AS TO CONFORM THESE REQUIREMENTS FOR CLASS THREE MEMBERS; TO AMEND SECTION 9‑11‑120, AS AMENDED, RELATING TO THE SCPORS PRERETIREMENT AND POSTRETIREMENT DEATH BENEFIT, SO AS TO CONFORM POSTRETIREMENT DEATH BENEFIT TO CLASS THREE REQUIREMENTS; TO AMEND SECTION 9‑11‑80, AS AMENDED, RELATING TO DISABILITY RETIREMENT UNDER THE SCPORS, SO AS TO CONFORM ELIGIBILITY REQUIREMENTS FOR CLASS THREE MEMBERS, PROVIDE THAT ELIGIBILITY DETERMINATION FOR DISABILITY RETIREMENT APPLICATIONS RECEIVED AFTER DECEMBER 31, 2013, MUST BE BASED ON THE MEMBER QUALIFYING FOR SOCIAL SECURITY DISABILITY BENEFITS, PROVIDE FOR THE CALCULATION OF DISABILITY BENEFITS, AND CONFORM THE REVIEW FOR SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM MEMBERS ON DISABILITY RETIREMENT OF THEIR DISABLED STATUS, SO AS TO CONFORM THIS REVIEW TO THE NEW ELIGIBILITY REQUIREMENTS; TO AMEND SECTION 9‑11‑90, AS AMENDED, RELATING TO RETURN TO COVERED EMPLOYMENT OF A RETIRED SCPORS MEMBER, SO AS TO INCREASE FROM FIFTEEN TO THIRTY DAYS THE BREAK IN SERVICE REQUIRED FOR SUCH A BREAK IN SERVICE WITHOUT A SUSPENSION OF RETIREMENT BENEFITS, TO PROVIDE THAT AFTER EARNING TEN THOUSAND DOLLARS IN A CALENDAR YEAR FROM A COVERED EMPLOYER, THE RETIREMENT ALLOWANCE OF THE SCPORS MEMBER IS SUSPENDED FOR THE REMAINDER OF THE CALENDAR YEAR AND TO PROVIDE THOSE MEMBERS ARE EXEMPT FROM THIS LIMIT; TO AMEND SECTION 9‑11‑130, AS AMENDED, RELATING TO RETURN OF CONTRIBUTIONS AND ELIGIBILITY FOR AN ANNUITY ON TERMINATION BEFORE RETIREMENT, SO AS TO CONFORM THESE PROVISIONS FOR CLASS THREE MEMBERS AND TO PROVIDE THAT THE PERSON NAMED BY A SCPORS MEMBER TO RECEIVE A RETURN OF THE MEMBER’S CONTRIBUTIONS ON THE MEMBER’S DEATH MAY ELECT TO RECEIVE AN ANNUITY IF THE DECEASED MEMBER WAS ELIGIBLE TO RETIRE AT THE TIME OF DEATH WHETHER OR NOT THE MEMBER WAS IN SERVICE; TO AMEND SECTIONS 9‑11‑210 AND 9‑11‑220, BOTH AS AMENDED, RELATING TO CONTRIBUTIONS OF SCPORS MEMBERS, SO AS TO CONFORM TO THE REVISED CONTRIBUTION SCHEDULE; TO REPEAL SECTIONS 9‑11‑70, 9‑11‑75, AND 9‑11‑310 RELATING RESPECTIVELY TO EARLY RETIREMENT, CONTRIBUTIONS, AND ANNUAL ADJUSTMENT IN SCPORS RETIREMENT ALLOWANCES BASED ON INCREASES IN THE CONSUMER PRICE INDEX; TO REPEAL SECTION 9‑16‑310 RELATING TO THE STATE RETIREMENT SYSTEMS INVESTMENT PANEL; TO AMEND CHAPTER 4, TITLE 9, RELATING TO RETIREMENT LAW, SO AS TO ESTABLISH THE SOUTH CAROLINA PUBLIC EMPLOYEE BENEFIT AUTHORITY (PEBA), PROVIDE FOR ITS MEMBERSHIP AND THEIR COMPENSATION, DEVOLVE FROM THE STATE BUDGET AND CONTROL BOARD TO PEBA THE ADMINISTRATION OF THE EMPLOYEE INSURANCE PROGRAM (EIP), ADMINISTRATION OF THE RETIREMENT DIVISION, COTRUSTEESHIP OF THE STATE RETIREMENT SYSTEM, AND THE DUTIES OF THE SOUTH CAROLINA DEFERRED COMPENSATION COMMISSION (SCDCC), TO PROVIDE THOSE ACTIONS OF PEBA REQUIRING APPROVAL BY THE STATE BUDGET AND CONTROL BOARD OR ITS SUCCESSOR, TO REQUIRE PEBA TO MAINTAIN A PUBLIC TRANSACTION REGISTER, AND TO REQUIRE AN ANNUAL FIDUCIARY AUDIT OF PEBA; TO AMEND SECTIONS 1‑11‑703, AS AMENDED, 1‑11‑710, AS AMENDED, 1‑11‑720, AS AMENDED, 1‑11‑725, 1‑11‑730, AS AMENDED, 1‑11‑740, 1‑11‑750, 1‑11‑770, 8‑23‑20, AS AMENDED, 8‑23‑30, AS AMENDED, 8‑23‑70, 8‑23‑110, 9‑1‑20, 9‑1‑210, 9‑1‑310, AS AMENDED, 9‑1‑1515, AS AMENDED, 9‑1‑1830, 9‑2‑10, CHAPTER 2 OF TITLE 9, SECTIONS 9‑8‑10, AS AMENDED, 9‑8‑30, 9‑8‑60, AS AMENDED, 9‑9‑10, AS AMENDED, 9‑9‑30, 9‑10‑10, 9‑10‑60, AS AMENDED, 9‑11‑30, AS AMENDED, 9‑12‑10, 9‑16‑10 AND 9‑16‑55, BOTH AS AMENDED, 9‑18‑10, 9‑20‑30, AS AMENDED, 9‑21‑20, AS AMENDED, 59‑1‑470, RELATING TO VARIOUS ELEMENTS OF THE EMPLOYEE INSURANCE PROGRAM, STATE RETIREMENT SYSTEM, AND THE SOUTH CAROLINA DEFERRED COMPENSATION COMMISSION, SO AS TO CONFORM THESE PROVISIONS TO PEBA GOVERNANCE; TO AMEND SECTION 9‑1‑1310, AS AMENDED, RELATING TO THE TRUSTEE OF THE RETIREMENT SYSTEM AND INVESTMENTS ALLOWED FOR THE ASSETS OF THE RETIREMENT SYSTEM, SO AS TO PROVIDE THAT PEBA AND THE STATE BUDGET AND CONTROL BOARD, OR ITS SUCCESSOR, ARE COTRUSTEES OF THE RETIREMENT SYSTEM; TO AMEND SECTION 9‑16‑315, RELATING TO THE RETIREMENT SYSTEM INVESTMENT COMMISSION, SO AS TO ADD A NONVOTING EX OFFICIO MEMBER, REVISE THE QUALIFICATIONS FOR APPOINTMENT, AND PROVIDE AN ANNUAL SALARY FOR MEMBERS; BY ADDING SECTION 9‑16‑380 SO AS TO PROVIDE FOR AN ANNUAL FIDUCIARY AUDIT OF THE RETIREMENT SYSTEM INVESTMENT COMMISSION; BY ADDING SECTION 9‑16‑335 SO AS TO PROVIDE THAT THE ANNUAL ASSUMED RATE OF RETURN ON RETIREMENT SYSTEM INVESTMENTS MUST BE SET BY THE GENERAL ASSEMBLY BY LAW AND TO PROVIDE THAT THE ASSUMED RATE OF RETURN EFFECTIVE JULY 1, 2012, IS SEVEN AND ONE‑HALF PERCENT; TO AMEND SECTIONS 9‑1‑1135, 9‑8‑185, 9‑9‑175, AND 9‑11‑265, RELATING TO MEMBERS’ ACCOUNTS IN THE VARIOUS CONTRIBUTORY STATE RETIREMENT SYSTEMS, SO AS TO PROVIDE THAT INTEREST IS NOT PAID ON INACTIVE ACCOUNTS AND TO DEFINE “INACTIVE ACCOUNTS”; TO AMEND SECTION 22‑1‑15, RELATING TO QUALIFICATIONS FOR MAGISTRATES, SO AS TO PROVIDE AN EXEMPTION FOR CERTAIN MAGISTRATES WHO RETIRE AND ARE SUBSEQUENTLY REAPPOINTED TO THEIR OFFICE WITHIN ONE YEAR, TO PROVIDE FOR STUDIES OF LEGISLATIVE AND STATEWIDE CONSTITUTIONAL OFFICERS COMPENSATION, “SPIKING” IN THE CALCULATION OF AVERAGE FINAL COMPENSATION IN SCRS AND SCPORS, AND DISABILITY RETIREMENT ELIGIBILITY, TO PROVIDE THE AGENCIES CHARGED WITH CONDUCTING THE STUDIES AND TO PROVIDE FOR THE COMPLETION DATE OF THESE STUDIES.**

Be it enacted by the General Assembly of the State of South Carolina:

**Findings**

SECTION 1. (A) The General Assembly finds that the five retirement systems administered by the South Carolina Retirement System are of great value to the State of South Carolina. The citizens of the State benefit by attracting a quality workforce that delivers services through the various governmental entities at the state level, the school district level and the local government level. Public employers participating in the systems benefit by offering retirement programs that attract and retain employees. Public employees participating in the systems benefit as working members of public retirement systems that provide for stable retirement income.

 (B) The General Assembly further finds that the financial stability and long‑term viability of the various systems are threatened by the following factors:

 ‑The funding ratio of South Carolina Retirement System has eroded over the past ten years and is currently in the lowest third of the state and local government defined benefit plans in the United States (126 plans as of July 1, 2011).

 ‑Unanticipated negative returns during the recession of 2008‑2009 and aggressive investment assumptions which have not materialized.

 ‑Demographic and economic actuarial assumptions which were overly optimistic.

 ‑Increases to member benefits and increased cost‑of‑living increases (COLAs) for retirees which were never funded.

 Over a year‑long period of study by both Senate and House subcommittees, members of the General Assembly received testimony from active employees, system retirees, actuarial consultants, other experts, and the general public about the system and its long‑term viability. These hearings made clear that system stability and certainty of benefits to annuitants are paramount and that all parties must share the costs of assuring the financial sustainability of the system over the long term.

 (C) The General Assembly further finds that addressing the threats to the long‑term sustainability of the system requires shared sacrifice by employers, employees, and system retirees. Thus, employers and employees must pay more to fund the system, and system retirees must understand that future prospective benefit adjustment and other post‑retirement prospective benefit adjustments are not inevitable.

 (D) The General Assembly further finds that, taken as a whole, the changes made by this act constitute the most reliable and efficient means of addressing the long‑term sustainability issues of the system. The changes made by this act are intended to satisfy the principle of intergenerational equity, that is, pension costs should be allocated among employees, employers and taxpayers on an equitable basis over time and not perpetually pushed into the future or immediately imposed on current taxpayers. In addition, the changes made by this act are intended to recognize and provide for a reasonable margin for adverse experience.

Part I

South Carolina Retirement System

**Retirement allowance adjustments, contributions**

SECTION 2. A. Article 13, Chapter 1, Title 9 of the 1976 Code is amended by adding:

 “Section 9‑1‑1815. Effective beginning July 1, 2012, and annually thereafter, the retirement allowance received by retirees and their surviving annuitants inclusive of supplemental allowances payable pursuant to the provisions of Sections 9‑1‑1910, 9‑1‑1920, and 9‑1‑1930, must be increased by the lesser of one percent or five hundred dollars. Only those retirees and their surviving annuitants in receipt of an allowance on July first preceding the effective date of the increase are eligible to receive the increase. Any increase in allowance granted pursuant to this section must be included in the determination of any subsequent increase.”

B. Article 9, Chapter 1, Title 9 of the 1976 Code is amended by adding:

 “Section 9‑1‑1085. (A) As provided in Sections 9‑1‑1020 and 9‑1‑1050, the employer and employee contribution rates for the system beginning in Fiscal Year 2012‑2013, expressed as a percentage of earnable compensation, are as follows:

Fiscal Year Employer Contribution Employee

 Contribution

2012‑2013 10.60 7.00

2013‑2014 10.60 7.50

2014‑2015 and after 10.90 8.00

The employer contribution rate set out in this schedule includes contributions for participation in the incidental death benefit plan provided in Sections 9‑1‑1770 and 9‑1‑1775. The employer contribution rate for employers that do not participate in the incidental death benefit plan must be adjusted accordingly.

 (B) After June 30, 2015, the board may increase the percentage rate in employer and employee contributions for the system on the basis of the actuarial valuation, but any such increase may not result in a differential between the employee and employer contribution rate for the system that exceeds 2.9 percent of earnable compensation. An increase in the contribution rate adopted by the board pursuant to this section may not provide for an increase in an amount of more than one‑half of one percent of earnable compensation in any one year.

 (C) If the scheduled employer and employee contributions provided in subsection (A), or the rates last adopted by the board pursuant to subsection (B), are insufficient to maintain a thirty year amortization schedule for the unfunded liabilities of the system, then the board shall increase the contribution rate as provided in subsection (A) or as last adopted by the board in equal percentage amounts for employer and employee contributions as necessary to maintain an amortization schedule of no more than thirty years. Such adjustments may be made without regard to the annual limit increase of one‑half percent of earnable compensation provided pursuant to subsection (B), but the differential in the employer and employee contribution rates provided in subsection (A) or subsection (B), as applicable, of this section must be maintained at the rate provided in the schedule for the applicable fiscal year.

 (D)(1) After June 30, 2015, if the most recent annual actuarial valuation of the system shows a ratio of the actuarial value of system assets to the actuarial accrued liability of the system (the funded ratio) that is equal to or greater than ninety percent, then the board, effective on the following July first, may decrease the then current contribution rates upon making a finding that the decrease will not result in a funded ratio of less than ninety percent. Any decrease in contribution rates must maintain the 2.9 percent differential between employer and employee contribution rates provided pursuant to subsection (B) of this section.

 (2) If contribution rates are decreased pursuant to item (1) of this subsection and the most recent annual actuarial valuation of the system shows a funded ratio of less than ninety percent, then effective on the following July first, and annually thereafter as necessary, the board shall increase the then current contribution rates as provided pursuant to subsection (B) of this section until a subsequent annual actuarial valuation of the system shows a funded ratio that is equal to or greater than ninety percent.

**Definitions**

SECTION 3. A. 1. Section 9‑1‑10 of the 1976 Code, as last amended by Act 353 of 2008, is further amended by adding a new item after item (18) to read:

 “(18A) ‘Class Three member’ means an employee member of the system with an effective date of membership after June 30, 2012.”

 2. Section 9‑1‑10 of the 1976 Code, as last amended by Act 353 of 2008, is further amended by adding a new item after item (28) to read:

 “(28A) ‘Rule of ninety’ means a requirement that the total of the member’s age and the member’s creditable service equals at least ninety years.”

B. Section 9‑1‑10(4) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

 “(4)(a) ‘Average final compensation’ with respect to Class One and Class Two members retiring on or after July 1, 1986, means the average annual earnable compensation of a member during the twelve consecutive quarters of his creditable service on which regular contributions as a member were made to the system producing the highest such average; a quarter means a period January through March, April through June, July through September, or October through December. An amount up to and including forty‑five days’ termination pay for unused annual leave at retirement may be added to the average final compensation. Average final compensation for an elected official may be calculated as the average annual earnable compensation for the thirty‑six consecutive months before the expiration of the elected official’s term of office.

 (b) ‘Average final compensation’ with respect to Class Three members means the average annual earnable compensation of a member during the twenty consecutive quarters of the member’s creditable service on which regular contributions as a member were made to the system producing the highest such average; a quarter means a period January through March, April through June, July through September, or October through December. Termination pay for unused annual leave at retirement may not be added to the average final compensation.”

C. Section 9‑1‑10(8) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

 “(8)(a) ‘Earnable compensation’ means the full rate of the compensation that would be payable to a member if the member worked the member’s full normal working time; when compensation includes maintenance, fees, and other things of value the board shall fix the value of that part of the compensation not paid in money directly by the employer.

 (b) For work performed by a member after December 31, 2012, earnable compensation does not include any overtime pay not mandated by the employer.”

**Contributions**

SECTION 4. Section 9‑1‑1020 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

 “Section 9‑1‑1020. The employee annuity savings fund shall be the account in which shall be recorded the contributions deducted from the earnable compensation of members to provide for their employee annuities. Each employer shall cause to be deducted from the compensation of each member on each and every payroll of such employer for each and every payroll period four percent of his earnable compensation. With respect to each member who is eligible for coverage under the Social Security Act in accordance with the agreement entered into during 1955 in accordance with the provisions of Chapter 7 of this Title; however, such deduction shall, commencing with the first day of the period of service with respect to which such agreement is effective, be at the rate of three percent of the part of his earnable compensation not in excess of four thousand eight hundred dollars, plus five percent of the part of his earnable compensation in excess of four thousand eight hundred dollars. In the case of any member so eligible and receiving compensation from two or more employers, such deductions may be adjusted under such rules as the board may establish so as to be as nearly equivalent as practicable to the deductions which would have been made had the member received all of such compensation from one employer. In determining the amount earnable by a member in a payroll period, the board may consider the rate of annual earnable compensation of such member on the first day of the payroll period as continuing throughout such payroll period and it may omit deduction from earnable compensation for any period less than a full payroll period if a teacher or employee was not a member on the first day of the payroll period.

 Each employer shall certify to the board on each and every payroll or in such other manner as the board may prescribe the amounts to be deducted and such amounts shall be deducted and, when deducted, shall be credited to said employee annuity savings fund, to the individual accounts of the members from whose compensation the deductions were made.

 The rates of the deductions, without regard to a member’s coverage under the Social Security Act, must be the percentage of earnable compensation as provided pursuant to Section 9‑1‑1085.

 Each department and political subdivision shall pick up the employee contributions required by this section for all compensation paid on or after July 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code. For this purpose, each department and political subdivision is deemed to have taken formal action on or before January 1, 2009, to provide that the contributions on behalf of its employees, although designated as employer contributions, shall be paid by the employer in lieu of employee contributions. The department and political subdivision shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The department and political subdivision may pick up these contributions by a reduction in the cash salary of the employee.

 The employee, however, must not be given the option of choosing to receive the contributed amount of the pick ups directly instead of having them paid by the employer to the retirement system. Employee contributions picked up shall be treated for all purposes of this section in the same manner and to the extent as employee contributions made before the date picked up.

 Payments for unused sick leave, single special payments at retirement, bonus and incentive‑type payments, or any other payments not considered a part of the regular salary base are not compensation for which contributions are deductible. Not including Class Three employees, contributions are deductible on up to and including forty‑five days’ termination pay for unused annual leave. If a member has received termination pay for unused annual leave on more than one occasion, contributions are deductible on up to and including forty‑five days’ termination pay for unused annual leave for each termination payment for unused annual leave received by the member. However, only an amount up to and including forty‑five days’ pay for unused annual leave from the member’s last termination payment shall be included in a member’s average final compensation calculation for other than Class Three employees.”

**Contributions**

SECTION 5. Section 9‑1‑1050 of the 1976 Code is amended to read:

 “Section 9‑1‑1050. The employer annuity accumulation fund shall be the account:

 (1) in which shall be recorded the reserves on all employee annuities in force and against which shall be charged all employee annuities and all benefits in lieu of employee annuities;

 (2) in which must be recorded all reserves for the payment of all employer annuities and other benefits payable from contributions made by employers and against which is charged all employer annuities and other benefits on account of members with prior service credit; and

 (3) in which shall be recorded the reserves on all employer annuities granted to members not entitled to prior service credit and against which such employer annuities and benefits in lieu thereof shall be charged.

 There shall be paid to the system and credited to the employer annuity accumulation fund contributions by the employers in an amount equal to a certain percentage of the earnable compensation of each member employed by each employer to be known as the ‘normal contribution’ and an additional amount equal to a percentage of such earnable compensation to be known as the ‘accrued liability contribution’. The rate percent of such contributions shall be fixed on the basis of the liabilities of the system as shown by actuarial valuation but may not be less than those required pursuant to Section 9‑1‑1085.”

**Contributions**

SECTION 6. Section 9‑1‑1080 of the 1976 Code is amended to read:

 “Section 9‑1‑1080. The total amount payable in each year by each employer for credit to the employer annuity accumulation fund shall not be less than the sum of the rate percent known as the normal contribution rate and the accrued liability contribution rate of the total earnable compensation of all members during the preceding year. The aggregate payment by employers shall be sufficient, when combined with the amount in the fund, to provide the employer annuities and other benefits payable out of the fund during the year then current.”

**Service credit purchase**

SECTION 7. A. Section 9‑1‑1140 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

 “Section 9‑1‑1140. (A) An active member may establish service credit for any period of paid public service by making an actuarially neutral payment to the system as determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated. A member may not establish credit for a period of public service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for public service to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

 (B) An active member may establish service credit for any period of paid educational service by making an actuarially neutral payment to the system determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated. A member may not establish credit for a period of educational service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for educational service to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

 (C) An active member may establish up to six years of service credit for any period of military service, if the member was discharged or separated from military service under conditions other than dishonorable, by making an actuarially neutral payment to the system to be determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated.

 (D) An active member on an approved leave of absence from an employer that participates in the system who returns to covered employment within four years may purchase service credit for the period of the approved leave, but may not purchase more than two years of service credit for each separate leave period, by making an actuarially neutral payment to the system to be determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated.

 (E) An active member who has five or more years of earned service credit may establish up to five years of nonqualified service by making an actuarially neutral payment to the system to be determined by the actuary for the board based on the member’s current age and service credit, but not less than thirty‑five percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated.

 (F) An active member may establish service credit for any period of service in which the member participated in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education, by making an actuarially neutral payment to the system to be determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the system or in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education. Periods of less than a year must be prorated. A member may not establish credit for a period of service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit under this subsection to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code. Service purchased under this subsection is ‘earned service’ and counts toward the required five or more years of earned service necessary for benefit eligibility. Compensation earned for periods purchased under this subsection while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education must be treated as earnable compensation and must be used in calculating a member’s average final compensation. A member purchasing service under this subsection who has funds invested in a TIAA Traditional account under a TIAA‑CREF Retirement Annuity contract is eligible to make a plan to plan transfer in accordance with the terms of that contract.

 (G) An active member who previously withdrew contributions from the system may reestablish the service credited to the member at the time of the withdrawal of contributions by repaying the amount of the contributions previously withdrawn, plus regular interest from the date of the withdrawal to the date of repayment to the system.

 (H) An active member establishing retirement credit pursuant to this chapter may establish that credit by means of payroll deducted installment payments. Interest must be paid on the unpaid balance of the amount due at the rate of the prime rate plus two percent a year.

 (I) An employer, at its discretion, may pay to the system all or a portion of the cost for an employee’s purchase of service credit under this chapter. Any amounts paid by the employer under this subsection for all purposes must be treated as employer contributions.

 (J) Service credit purchased under this section is not ‘earned service’ and does not count toward the required five or more years of earned service necessary for benefit eligibility except:

 (1) earned service previously withdrawn and reestablished;

 (2) service rendered while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education that has been purchased pursuant to subsection (F); or

 (3) service earned as a participant in the system, the South Carolina Police Officers Retirement System, the Retirement System for Members of the General Assembly, or the Retirement System for Judges and Solicitors that is transferred to or purchased in the system.

 (K) A member may purchase each type of service under this section once each fiscal year.

 (L) The board shall promulgate regulations and prescribe rules and policies, as necessary, to implement the service purchase provisions of this chapter.

 (M) At retirement, after March 31, 1991, a Class One or Class Two member shall receive credit for not more than ninety days of his unused sick leave from the member’s last employer at no cost to the member. The leave must be credited at a rate where twenty days of unused sick leave equals one month of service. This additional service credit may not be used to qualify for retirement.

 (N) An employee drawing workers’ compensation who is on a leave of absence for a limited period may voluntarily contribute on his contractual salary, to be matched by the employer.”

B. Upon approval of this act by the Governor, this section takes effect January 2, 2013.

**Retirement eligibility**

SECTION 8. Section 9‑1‑1510 of the 1976 Code, as last amended by Act 1 of 2001, is further amended to read:

 “Section 9‑1‑1510. (A) A Class One or Class Two member may retire upon written application to the system setting forth at what time, no more than ninety days before nor more than six months after the execution and filing of the application, the member desires to be retired, if the member at the time specified for the member’s service retirement has:

 (1) five or more years of earned service;

 (2) attained the age of sixty years or has twenty‑eight or more years of creditable service; and

 (3) separated from service.

 (B) A Class Three member may retire upon written application to the system setting forth at what time, no more than ninety days before nor more than six months after the execution and filing of the application, the member desires to be retired, if the member at the time specified for the member’s service retirement has:

 (1) eight or more years of earned service;

 (2) attained the age of sixty years or satisfied the rule of ninety requirement; and

 (3) separated from service.

 (C) A member who is an elected official whose annual compensation is less than the earnings limitation pursuant to Section 9‑1‑1790 and who is otherwise eligible for service retirement may retire for purposes of this section without a break in service.”

**Early retirement eligibility**

SECTION 9. Section 9‑1‑1515(A) of the 1976 Code, as last amended by Act 1 of 2001, is further amended to read:

 “(A) In addition to other types of retirement provided by this chapter, a Class One or Class Two member may elect early retirement if the member:

 (1) has five or more years of earned service;

 (2) has attained the age of fifty‑five years;

 (3) has at least twenty‑five years of creditable service; and

 (4) has separated from service.

 A member electing early retirement shall apply in the manner provided in Section 9‑1‑1510.”

**Disability retirement**

SECTION 10. A. Section 9‑1‑1540 of the 1976 Code, as last amended by Act 162 of 2010, is further amended to read:

 “Section 9‑1‑1540. (A) Upon the application of a member in service or of the member’s employer that is received by the system before January 1, 2014, a member in service on or after July 1, 1970, who has the earned service required pursuant to Section 9‑1‑1510 for the member’s class, or a contributing member who is disabled as a result of an injury arising out of and in the course of the performance of the member’s duties regardless of length of membership on or after July 1, 1985, may be retired by the board not less than thirty days and not more than nine months next following the date of filing the application on a disability retirement allowance if the system, after a medical examination of the member, certifies that the member is mentally or physically incapacitated for the further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. For purposes of this section, a member is considered to be in service on the date the application is filed if the member is not retired and the last day the member was employed by a covered employer in the system occurred not more than ninety days prior to the date of filing.

 The South Carolina Retirement System may contract with the Department of Vocational Rehabilitation to evaluate the medical evidence submitted with the disability application relative to the job being performed and make recommendations to the medical board. The system may approve a disability retirement subject to the member participating in vocational rehabilitation with the Department of Vocational Rehabilitation. Upon determination by the department that a member retired on disability is able to reenter the job market and work is available, the retirement system may adjust the benefit paid by the system in accordance with Sections 9‑1‑1580, 9‑1‑1590, 9‑9‑60, and 9‑11‑90.

 (B)(1) Upon the application of a member in service or of the member’s employer received by the system after December 31, 2013, a member in service who has the earned service required for the member’s class pursuant to Section 9‑1‑1510, or who is disabled as a result of an injury arising out of and in the course of the performance of the member’s duties regardless of length of membership, may be retired by the board if the member is determined to be disabled pursuant to subsection (B)(2) of this section. For purposes of this section, a member is considered to be in service on the date the application is filed if the last day the member was employed by a covered employer in the system occurred not more than ninety days before the date of filing and, if the member has retired on a service retirement allowance, the member’s date of retirement occurred not more than ninety days before the date of filing.

 (2) A member whose application for disability retirement benefits was received by the system after December 31, 2013, is considered disabled if the member qualifies for the payment of Social Security disability benefits and is eligible for benefits pursuant to this section upon proof of the disability, provided that the date of disability established by the Social Security Administration falls within one year after the last day the member was employed by a covered employer in the system. The member shall submit to the retirement system the Social Security Award Notice certifying the date of entitlement for disability benefits as issued by the Social Security Administration. Upon final approval by the system, disability benefits become effective on the date of entitlement as established by the Social Security Administration or the day after the member’s last day on the payroll of a covered employer, whichever is later.”

B. Section 9‑1‑1560 of the 1976 Code, as last amended by Act 166 of 1993, is further amended to read:

 “Section 9‑1‑1560. (A) Except as provided in subsection (E) of this section, upon retirement for disability on or after July 1, 1976, a Class One member shall receive a service retirement allowance if he has attained the age of sixty‑five years. Otherwise he shall receive a disability retirement allowance which shall be computed as follows:

 (1) Such allowance shall be equal to the service retirement allowance which would have been payable had he continued in service to age sixty‑five based on the average final compensation, minus the actuarial equivalent of the contribution the member would have made during such continued service, with an interest rate of four percent per annum.

 (2) Notwithstanding the foregoing provisions, any Class One member whose creditable service commenced prior to July 1, 1976, shall receive not less than the benefit which would have been provided by the provisions of this section in effect immediately prior to July 1, 1976.

 (B) Except as provided in subsection (E) of this section, upon retirement for disability on or after May 19, 1973, a Class Two member shall receive a service retirement allowance if he has attained the age of sixty‑five years. Otherwise he shall receive a disability retirement allowance which shall be computed as follows:

 (1) Such allowance shall be equal to the service retirement allowance which would have been payable had he continued in service to age sixty‑five based on the average final compensation, minus the actuarial equivalent of the contribution the member would have made during such continued service, with an interest rate of four percent per annum.

 (2) Notwithstanding the foregoing provisions, any Class Two member whose creditable service commenced prior to July 1, 1964, shall receive not less than the benefit provided by subsection (A) of this section.

 (C) Except as provided in subsection (E) of this section, employees retired on disability subsequent to July 1, 1982, must have their benefits recalculated in accordance with the provisions of item (1) of subsection (A) and item (2) of subsection (B). (D) Notwithstanding any other provision of this section, upon retirement for disability after October 15, 1992, at any age, a member must receive a disability retirement allowance equal to at least fifteen percent of his average final compensation.

 (E)(1) Upon retirement for disability based on an application for disability benefits received by the system after December 31, 2013, a Class One member shall receive a disability retirement allowance equal to one and forty‑five hundredths percent of his average final compensation multiplied by the number of years of his creditable service as of the date of retirement, without reduction because of commencement before the normal retirement date.

 (2) Upon retirement for disability based on an application for disability benefits received by the system after December 31, 2013, a Class Two or Class Three member shall receive a disability retirement allowance equal to one and eighty‑two hundredths percent of his average final compensation, multiplied by the number of years of his creditable service as of the date of retirement, without reduction because of commencement before the normal retirement date.”

C. Section 9‑1‑1570 of the 1976 Code is amended to read:

 “Section 9‑1‑1570. (A) Once each year during the first five years following the retirement of a member on a disability retirement allowance and once in every three‑year period thereafter the board may, and upon his application, require any disability beneficiary who has not yet attained the age of sixty‑five years to undergo a medical examination to be made at the place of residence of the beneficiary or other place mutually agreed upon by a physician designated by the board. If any disability beneficiary who has not yet attained the age of sixty‑five years refuses to submit to at least one medical examination in any such year by a physician designated by the board the member’s disability retirement allowance may be discontinued until the member’s withdrawal of refusal and if the member’s refusal continues for one year, all the member’s rights in and to the member’s disability retirement allowance may be revoked by the board.

 (B) A member who is retired on a disability retirement allowance based upon an application received by the system after December 31, 2013, and who has not yet attained the age of sixty‑five years annually shall provide proof to the system that the member remains qualified for the receipt of Social Security disability benefits within thirty days of the anniversary of his retirement date. A member’s disability retirement allowance ceases upon a determination by the Social Security Administration that the member is no longer entitled to Social Security disability benefits for any reason. If any disability beneficiary who has not yet attained the age of sixty‑five years refuses to provide proof of disability required by the board, the member’s disability retirement allowance must be discontinued until the member provides such proof. If a member’s refusal to provide proof that the member remains qualified for Social Security disability benefits continues for one year, all of the member’s rights in and to the member’s disability retirement allowance pursuant to Section 9‑1‑1540 may be revoked by the board.”

**Retirement allowance calculation**

SECTION 11. Section 9‑1‑1550 of the 1976 Code, as last amended by Act 1 of 2001, is further amended by adding a new subsection at the end to read:

 “(C) Upon retirement from service after June 30, 2012, a Class Three member shall receive a service retirement allowance computed as follows:

 (1) If the member’s service retirement date occurs on or after his sixty‑fifth birthday or if the member has satisfied the rule of ninety requirement, the allowance must be equal to one and eighty‑two hundredths percent of the member’s average final compensation, multiplied by the number of years of the member’s creditable service.

 (2) If the member’s service retirement date occurs before his sixty‑fifth birthday and before he satisfies the rule of ninety requirement the member’s service retirement allowance is computed as in item (1) of this subsection but is reduced by five‑twelfths of one percent thereof for each month, prorated for periods less than a month, by which his retirement date precedes the first day of the month coincident with or next following his sixty‑fifth birthday.”

**Return of contributions, allowance eligibility**

SECTION 12. The first undesignated paragraph of Section 9‑1‑1650 of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

 “If a member ceases to be a teacher or employee except by death or retirement, the member must be paid within six months after the member’s demand for payment, but not less than ninety days after ceasing to be a teacher or employee, the sum of the member’s contributions and the accumulated regular interest on the contributions. If the member has five or more years of earned service or eight or more years of such service for a Class Three member, and before the time the member’s membership would otherwise terminate, elects to leave these contributions in the system, the member, unless these contributions are paid to him as provided by this section before the attainment of age sixty, remains a member of the system and is entitled to receive a deferred retirement allowance beginning at age sixty computed as a service retirement allowance in accordance with Section 9‑1‑1550(A) or (B) for Class One and Class Two members and Section 9‑1‑1550(C) for Class Three members. The employee annuity must be the actuarial equivalent at age sixty of the member’s contributions with the interest credits on the contributions, if any, as allowed by the board. If a member dies before retirement, the amount of the member’s accumulated contributions must be paid to the member’s estate or to the person the member nominated by written designation, duly acknowledged and filed with the board.”

**Retirement allowance eligibility**

SECTION 13. Section 9‑1‑1660(A) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

 “(A) The person nominated by a member to receive the full amount of the member’s accumulated contributions if the member dies before retirement may, if the member:

 (1) has five or more years of earned service or eight or more years of such service for a Class Three member;

 (2) dies while in service; and

 (3) has either attained the age of sixty years or has accumulated fifteen years or more of creditable service, elect to receive in lieu of the accumulated contributions an allowance for life in the same amount as if the deceased member had retired at the time of the member’s death and had named the person as beneficiary under an election of Option B of Section 9‑1‑1620(A).

 For purposes of the benefit calculation, a member who is not yet eligible for service retirement is assumed to be sixty years of age.”

**Return to covered employment**

SECTION 14. A. Section 9‑1‑1790(A) of the 1976 Code, as last amended by Act 153 of 2005, is further amended to read:

 “(A)(1) A retired member of the system who has been retired for at least thirty consecutive calendar days may be hired and return to employment covered by this system or any other system provided in this title and earn up to ten thousand dollars without affecting the monthly retirement allowance the member is receiving from the system. If the retired member continues in service after earning ten thousand dollars in a calendar year, the member’s allowance must be discontinued during his period of service in the remainder of the calendar year. If the employment continues for at least forty‑eight consecutive months, the provisions of Section 9‑1‑1590 apply. If a retired member of the system returns to employment covered by this system or any other system provided in this title sooner than thirty days after retirement, the member’s retirement allowance is suspended while the member remains employed by the participating employer. If an employer fails to notify the system of the engagement of a retired member to perform services, the employer shall reimburse the system for all benefits wrongly paid to the retired member.

 (2) The earnings limitation imposed pursuant to this item does not apply if the member meets at least one of the following qualifications:

 (a) the member retired before January 2, 2013;

 (b) the member has attained the age of sixty‑two years at retirement; or

 (c) compensation received by the retired member from the covered employer is for service in a public office filled by the appointment of the Governor and with confirmation by the Senate, by appointment or election by the General Assembly, or by election of the qualified electors of the applicable jurisdiction.”

B. Upon approval of this act by the Governor, this section takes effect January 2, 2013.

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SECTION 15. Section 9‑1‑2210 of the 1976 Code, as last amended by Act 112 of 2007, is further amended by adding a new subsection at the end to read:

 “(J) Notwithstanding any other provision of this section, a member who begins participation after June 30, 2012, shall end his participation no later than the fifth anniversary of the date the member commenced participation in the program, or June 30, 2018, whichever is earlier. A member’s participation may not continue after June 30, 2018, under any circumstance.”

**Repeal**

SECTION 16. Section 9‑1‑1810 of the 1976 Code is repealed. Section 9‑1‑2210 of the 1976 Code is repealed effective July 1, 2018, for all purposes except the distribution of program accounts existing on that date.

Part II

Retirement System for Members of the General Assembly

of the State of South Carolina

**System prospectively closed**

SECTION 17. Chapter 9, Title 9 of the 1976 Code is amended by adding:

 “Section 9‑9‑5.(A) Notwithstanding any other provision of law, the Retirement System for Members of the General Assembly of the State of South Carolina (GARS) established pursuant to this chapter is closed to nonmembers and persons who otherwise would have been required or eligible to become members of GARS, instead shall join the South Carolina Retirement System or the State Optional Retirement Program in the manner provided by law.

 (B) For purposes of this section, a ‘nonmember’ is an individual first elected to serve in the General Assembly at or after the general election of 2012.

 (C) Nothing in this section may be construed to alter or otherwise diminish the rights of persons who are active contributing members or special contributing members of the Retirement System for Members of the General Assembly of the State of South Carolina or who are retired members of that system or who are beneficiaries of deceased members of that system.”

**Member contributions**

SECTION 18. Section 9‑9‑120(2) of the 1976 Code is amended to read:

 “(2) Each member of the System shall contribute eleven percent of earnable compensation in each calendar year, up to twenty‑two years of credited service, commencing with the calendar year 2013. Such contributions shall be made through payroll deductions in the case of members of the General Assembly or through direct remittance by contributing special members as set forth in Item (2)(ii) of Section 9‑9‑40. The twenty‑two year limitation provided for in this item shall not apply to any member of the General Assembly during periods of active service.”

Part III

South Carolina Police Officers Retirement System

**Retirement allowance adjustment, contributions**

SECTION 19. A. Article 1, Chapter 11, Title 9 of the 1976 Code is amended by adding:

 “Section 9‑11‑312. Effective July 1, 2012, and annually thereafter, the retirement allowance received by retirees and their surviving annuitants pursuant to the provisions of this chapter, inclusive of Section 9‑11‑140 must be increased by the lesser of one percent or five hundred dollars. Only those retirees and their surviving annuitants in receipt of an allowance on July first preceding the effective date of the increase are eligible to receive the increase. Any increase in allowance granted pursuant to this section must be included in the determination of any subsequent increase.”

B. Article 1, Chapter 11, Title 9 of the 1976 Code is amended by adding:

 “Section 9‑11‑225. (A) As provided in Sections 9‑11‑210 and 9‑11‑220, the employer and employee contribution rates for the system beginning in Fiscal Year 2012‑2013, expressed as a percentage of earnable compensation, are as follows:

Fiscal Year Employer Contribution Employee

 Contribution

2012‑2013 12.30 7.00

2013‑201 4 12.50 7.50

2014‑2015 and after 13.00 8.00

The employer contribution rate set out in this schedule includes contributions for participation in the incidental death benefit plan provided in Sections 9‑11‑120 and 9‑11‑125 and for participation in the accidental death benefit program provided in Section 9‑11‑140. The employer contribution rate for employers that do not participate in these programs must be adjusted accordingly.

 (B) After June 30, 2015, the board may increase the percentage rate in employer and employee contributions for the system on the basis of the actuarial valuation, but any such increase may not result in a differential between the employee and employer contribution rate for that system that exceeds 5.00 percent of earnable compensation. An increase in the contribution rate adopted by the board pursuant to this section may not provide for an increase in an amount of more than one‑half of one percent of earnable compensation in any one year.

 (C) If the scheduled employer and employee contributions provided in subsection (A), or the rates last adopted by the board pursuant to subsection (B), are insufficient to maintain a thirty year amortization schedule for the unfunded liabilities of the system, then the board shall increase the contribution rate as provided in subsection (A) or as last adopted by the board in equal percentage amounts for employer and employee contributions as necessary to maintain an amortization schedule of no more than thirty years. Such adjustments may be made without regard to the annual limit increase of one‑half percent of earnable compensation provided pursuant to subsection (B), but the differential in the employer and employee contribution rates provided in subsection (A) or subsection (B), as applicable, of this section must be maintained at the rate provided in the schedule for the applicable fiscal year.

 (D)(1) After June 30, 2015, if the most recent annual actuarial valuation of the system shows a ratio of the actuarial value of system assets to the actuarial accrued liability of the system (the funded ratio) that is equal to or greater than ninety percent, then the board, effective on the following July first, may decrease the then current contribution rates upon making a finding that the decrease will not result in a funded ratio of less than ninety percent. Any decrease in contribution rates must maintain the 5.0 percent differential between employer and employee contribution rates provided pursuant to subsection (B) of this section.

 (2) If contribution rates are decreased pursuant to item (1) of this subsection and the most recent annual actuarial valuation of the system shows a funded ratio of less than ninety percent, then effective on the following July first, and annually thereafter as necessary, the board shall increase the then current contribution rates as provided pursuant to subsection (B) of this section until a subsequent annual actuarial valuation of the system shows a funded ratio that is equal to or greater than ninety percent.”

**Definitions**

SECTION 20. A. Section 9‑11‑10(7) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

 “(7)(a) ‘Average final compensation’ after July 1, 1986, for Class One and Class Two members means the average annual compensation of a member during the twelve consecutive quarters of the member’s creditable service on which regular contributions as a member were made to the system producing the highest average; a quarter means a period January through March, April through June, July through September, or October through December. An amount up to and including forty‑five days’ termination pay for unused annual leave at retirement may be added to the average final compensation. Average final compensation for an elected official may be calculated as the average annual earnable compensation for the thirty‑six consecutive months before the expiration of his term of office.

 (b) ‘Average final compensation’ for Class Three members means the average annual earnable compensation of a member during the twenty consecutive quarters of the member’s creditable service on which regular contributions as a member were made to the system producing the highest such average; a quarter means a period January through March, April through June, July through September, or October through December. Termination pay for unused annual leave at retirement may not be added to the average final compensation.”

B. Section 9‑11‑10 of the 1976 Code, as last amended by Act 153 of 2005, is further amended by adding a new item after item (11) to read:

 “(11A) ‘Class Three member’ means an employee member of the system with an effective date of membership after June 30, 2012.”

**Service credit purchase**

SECTION 21. A. Section 9‑11‑50 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

 “Section 9‑11‑50. (A) An active member may establish service credit for any period of paid public service by making an actuarially neutral payment to the system to be determined by the actuary for the board, based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. Periods of less than a year must be prorated. A member may not establish credit for a period of public service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for public service to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

 (B) An active member may establish service credit for any period of paid educational service by making an actuarially neutral payment to the system to be determined by the actuary for the board, based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. Periods of less than a year must be prorated. A member may not establish credit for a period of educational service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for educational service to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

 (C) An active member may establish up to six years of service credit for any period of military service, if the member was discharged or separated from military service under conditions other than dishonorable, by making an actuarially neutral payment to the system to be determined by the actuary for the board, based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. Periods of less than a year must be prorated.

 (D) An active member on an approved leave of absence from an employer that participates in the system who returns to covered employment within four years may purchase service credit for the period of the approved leave, but may not purchase more than two years of service credit for each separate leave period, by making an actuarially neutral payment to the system to be determined by the actuary for the board, based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. Periods of less than a year must be prorated.

 (E) An active member who has five or more years of earned service credit may establish up to five years of nonqualified service by making an actuarially neutral payment to the system to be determined by the actuary for the board, based on the member’s current age and service credit but not less than thirty‑five percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. Periods of less than a year must be prorated.

 (F) An active member may establish service credit for any period of service in which the member participated in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education, by making an actuarially neutral payment to the system to be determined by the actuary for the board, based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. Periods of less than a year must be prorated. A member may not establish credit for a period of service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit under this subsection to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code. Service purchased under this subsection is ‘earned service’ and counts toward the required five or more years of earned service necessary for benefit eligibility. Compensation earned while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education is not earnable compensation under the system and shall not be used in calculating a member’s average final compensation. A member purchasing service under this subsection who has funds invested in a TIAA Traditional account under a TIAA‑CREF Retirement Annuity contract shall be eligible to make a plan to plan transfer in accordance with the terms of that contract.

 (G) An active member who previously withdrew contributions from the system may reestablish the service credited to the member at the time of the withdrawal of contributions by repaying the amount of the contributions previously withdrawn, plus regular interest from the date of the withdrawal to the date of repayment to the system.

 (H) An active member establishing retirement credit pursuant to this chapter may establish that credit by means of payroll deducted installment payments. Interest must be paid on the unpaid balance of the amount due at the rate of the prime rate plus two percent a year.

 (I) An employer, at its discretion, may pay to the system all or a portion of the cost for an employee’s purchase of service credit under this chapter. Amounts paid by the employer under this subsection for all purposes must be treated as employer contributions.

 (J) Service credit purchased under this section is not ‘earned service’ and does not count toward the required five or more years of earned service necessary for benefit eligibility except:

 (1) earned service previously withdrawn and reestablished;

 (2) service rendered while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education that has been purchased pursuant to subsection (F); or

 (3) service earned as a participant in the system, the South Carolina Retirement System, the Retirement System for Members of the General Assembly, or the Retirement System for Judges and Solicitors that is transferred to or purchased in the system.

 (K) A member may purchase each type of service under this section once each fiscal year.

 (L) At retirement, after March 31, 1991, a Class One or Class Two member shall receive credit for not more than ninety days of his unused sick leave from the member’s last employer at no cost to the member. The leave must be credited at a rate where twenty days of unused sick leave equals one month of service. This additional service credit may not be used to qualify for retirement.

 (M) The board shall promulgate regulations and prescribe rules and policies, as necessary, to implement the service purchase provisions of this chapter.

 (N) An employee drawing workers’ compensation who is on a leave of absence for a limited period may voluntarily contribute on his contractual salary, to be matched by the employer.”

B. Upon approval of this act by the Governor, this section takes effect January 2, 2013.

**Retirement eligibility**

SECTION 22. Section 9‑11‑60 of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

 “Section 9‑11‑60.(1) A member may retire upon written application to the system setting forth at what time, no more than ninety days before nor more than six months after the execution and filing of the application, the member desires to be retired, if the member at the time specified for the member’s service retirement has:

 (a) five or more years of earned service or eight or more years of such service for a Class Three member;

 (b) attained the age of fifty‑five years or has twenty‑five or more years of credited service, or twenty‑seven or more years of such service for a Class Three member; and

 (c) separated from service.

 (2) Upon service retirement on or after July 1, 1989, the member shall receive a service retirement allowance which is equal to the sum of (a), (b), and (c) below:

 (a) a monthly retirement allowance equal to ten dollars and ninety‑seven cents multiplied by the number of years of his Class One service;

 (b) a monthly retirement allowance equal to one‑twelfth of two and fourteen hundredths percent of his average final compensation multiplied by the number of years of his Class Two or Class Three service;

 (c) an additional monthly retirement allowance which is the actuarial equivalent of the member’s accumulated additional contributions.

 The sum of the retirement allowances computed under (a) and (b) above may not be less than the allowance which would have been provided under (a) if all of the member’s credited service were Class One service. For a police officer who became a member before July 1, 1974, and who was a participant in the Supplemental Allowance Program, the portion of his service retirement allowance not provided by his accumulated contributions may not be less than it would have been if the provisions of the System in effect on June 30, 1974, had continued in effect until his date of retirement.”

**Death benefit**

SECTION 23. Section 9‑11‑120(F) of the 1976 Code, as last amended by Act 176 of 2010, is further amended to read:

 “(F) Upon the death of a retired member on or after July 1, 2000, there must be paid to the designated beneficiary or beneficiaries, if living at the time of the retired member’s death, otherwise to the retired member’s estate, a benefit of two thousand dollars if the retired member had ten years of creditable service but less than twenty years, four thousand dollars if the retired member had twenty years of creditable service but less than twenty‑five or less than twenty‑seven for a Class Three member, and six thousand dollars if the retired member had at least twenty‑five years of creditable service or at least twenty‑seven years of such service for a Class Three member, at the time of retirement, if the retired member’s most recent employer before retirement is covered by the preretirement death benefit program.”

**Disability retirement**

SECTION 24. Section 9‑11‑80 of the 1976 Code, as last amended by Act 162 of 2010, is further amended to read:

 “Section 9‑11‑80.(1) On the application of a member in service or the member’s employer, a member who has the years of earned service required for the member’s class pursuant to Section 9‑11‑60(1) or any contributing member who is disabled as a result of an injury arising out of and in the course of the performance of the member’s duties regardless of length of membership, may be retired by the retirement board not less than thirty days and not more than nine months next following the date of filing the application on a disability retirement allowance if the system, after a medical examination of the member, certifies that the member is mentally or physically incapacitated for the further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. For purposes of this section, a member is considered to be in service on the date the application is filed if the member is not retired and the last day the member was employed by a covered employer in the system occurred not more than ninety days before the date of filing.

 The South Carolina Retirement System may contract with the Department of Vocational Rehabilitation to evaluate the medical evidence submitted with the disability application relative to the job being performed and make recommendations to the system. The system may approve a disability retirement subject to the member participating in vocational rehabilitation with the Department of Vocational Rehabilitation. Upon determination by the department that a member retired on disability is able to reenter the job market and work is available, the retirement system may adjust the benefit paid by the system in accordance with Sections 9‑1‑1580, 9‑1‑1590, 9‑9‑60, and 9‑11‑90.

 (2)(A) Upon disability retirement based upon an application received by the system before January 1, 2014, the member shall receive a disability retirement allowance which shall be equal to a service retirement allowance computed on the basis of his average final compensation, his years of credited service and his accumulated additional contributions at the date of his disability retirement; provided, however, that, at disability retirement, his disability retirement allowance shall be determined on the basis of the number of years of credited service the member would have completed had he remained in service until attaining age fifty‑five and on the basis of the average final compensation. For the purpose of calculating the disability retirement allowance, the additional credited service so determined shall be either Class One service or Class Two service depending upon the classification of the member at time of retirement.

 (B) Upon disability retirement based upon an application received by the system after December 31, 2013, the member shall receive a disability retirement allowance which is equal to a service retirement allowance computed on the basis of the member’s average final compensation, the member’s years of credited service, and the member’s accumulated additional contributions at the date of the member’s disability retirement. However, at disability retirement, the member’s disability retirement allowance must be determined on the basis of the member’s average final compensation at retirement and on the basis of the number of years of credited service the member would have completed had the member remained in service until attaining age fifty‑five or until attaining twenty‑five years of credited service, whichever is less. For the purpose of calculating the disability retirement allowance, the additional credited service so determined must be either Class One service or Class Two service depending upon the classification of the member at the time of retirement.

 (3)(A) Once each year during the first five years following the retirement of a member on a disability retirement allowance, and once in every three‑year period thereafter, the Board may require any disability beneficiary who has not yet attained the age of fifty‑five years to undergo a medical examination, such examination to be made at the place of residence of the beneficiary or other place mutually agreed upon, by the system. If a disability beneficiary who has not yet attained the age of fifty‑five years refuses to submit to any such medical examination, the member’s retirement allowance may be discontinued until the member’s withdrawal of such refusal, and if the refusal continues for one year, all the member’s rights in and to the member’s retirement allowance may be revoked, but upon revocation any unexpended portion of the member’s accumulated contributions to date of retirement shall be returned to the member.

 (B) To continue to receive a disability retirement allowance, a member who is retired on a disability retirement allowance based upon an application received by the system after December 31, 2013, and who has not yet attained the age of fifty‑five years shall provide proof to the system that the member is qualified for the receipt of Social Security disability benefits. This proof must be submitted to the system within thirty days of the third anniversary of the member’s disability retirement date and within thirty days of each anniversary thereafter. A member’s disability retirement allowance ceases upon a determination by the Social Security Administration that the member is no longer entitled to Social Security disability benefits for any reason. If any disability beneficiary who has not yet attained the age of fifty‑five years refuses to provide proof of disability required by the board, his disability retirement allowance must be discontinued until the member provides such proof. If a member’s refusal to provide proof that the member remains qualified for Social Security disability benefits continues for one year, all of the member’s rights in and to the member’s disability retirement allowance pursuant to this section may be revoked by the board.

 (4) If the system certifies that the member’s disability has been removed and that the member has regained earning capacity, the member’s disability retirement allowance may be discontinued, or if the disability has been partly removed and the member’s earning capacity regained in part, the disability retirement allowance may be reduced proportionately as provided pursuant to Section 9‑1‑1580. The determination of the board as to any disputed question, after due consideration accorded to the member, is conclusive. If the retirement allowance of any member retired for disability is discontinued or reduced, and if the member again suffers disability within five years of the date of the member’s recovery and again loses earning capacity, the member is entitled to apply to the board for a restoration of the original retirement allowance, and the board may restore all or part of the member’s original retirement allowance. At the expiration of the five‑year period, if the retirement allowance has not been restored, all rights in and to the member’s disability retirement allowance are revoked. The member then is entitled to a deferred early retirement allowance as provided in Section 9‑11‑70 based upon the member’s average final compensation and credited service at the member’s date of disability retirement.

 (5) After age fifty‑five, a disability retiree is subject to the same earnings limitation as a service retiree.

 (6) Notwithstanding any other provision of this section, upon retirement for disability after October 15, 1992, at any age, a member must receive a disability retirement allowance equal to at least fifteen percent of his average final compensation.”

**Return to covered employment**

SECTION 25. A. Section 9‑11‑90(4)(a) of the 1976 Code, as last amended by Act 356 of 2002, is further amended to read:

 “(a)(i) Notwithstanding the provisions of subsections (1) and (2) of this section, a retired member of the system who has been retired for at least thirty consecutive calendar days may be hired and return to employment covered by this system or any system provided in this title and may earn up to ten thousand dollars without affecting the monthly retirement allowance the member is receiving from this system. If the retired member continues in service after having earned ten thousand dollars in a calendar year, the member’s retirement allowance must be discontinued during the member’s period of service in the remainder of the calendar year. If the employment continues for at least forty‑eight consecutive months, the provisions of Section 9‑11‑90(3) apply. If a retired member of the system returns to employment covered by the South Carolina Police Officers Retirement System or any other system provided in this title sooner than thirty consecutive calendar days after retirement, the member’s retirement allowance is suspended while the member remains employed by a participating employer of any of these systems. If an employer fails to notify the system of the engagement of a retired member to perform services, the employer shall reimburse the system for all benefits wrongly paid to the retired member.

 (ii) The earnings limitation imposed pursuant to this item does not apply if the member meets at least one of the following qualifications:

 (A) the member retired before January 2, 2013;

 (B) the member has attained the age of fifty‑seven years at retirement; or

 (C) compensation received by the retired member from the covered employer is for service in a public office filled by the appointment of the Governor and with confirmation by the Senate, by appointment or election by the General Assembly, or by election of the qualified electors of the applicable jurisdiction.”

B. Upon approval of this act by the Governor, this section takes effect January 2, 2013.

**Retirement allowance eligibility**

SECTION 26. Section 9‑11‑130(1) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

 “(1) The person nominated by a member pursuant to Section 9‑11‑110 to receive a lump sum amount if the member dies before retirement may, if the member:

 (a) has five or more years of earned service or eight or more years of such service for a Class Three member;

 (b) dies in service; and

 (c) has either attained age fifty‑five or has accumulated fifteen years of creditable service, elect to receive in lieu of the lump sum amount otherwise payable under Section 9‑11‑110(1)(a) an allowance for life in the same amount as if the deceased member had retired at the time of his death and had named the person as beneficiary under an election of Option B pursuant to Section 9‑11‑150(A).

 For purposes of the benefit calculation, a member who is not yet eligible for service retirement is assumed to be fifty‑five years of age.”

**Contributions**

SECTION 27. Subsections (1) and (12) of Section 9‑11‑210 of the 1976 Code, as last amended by Act 424 of 1988 and Act 14 of 2005, respectively, are further amended to read:

 “(1) Each Class One member shall contribute to the system twenty‑one dollars a month during his service after becoming a member. Each Class Two and Class Three member shall contribute to the system a percentage of the member’s earnable compensation as provided pursuant to Section 9‑11‑225.

 (12) Payments for unused sick leave, single special payments at retirement, bonus and incentive‑type payments, or any other payments not considered a part of the regular salary base are not compensation for which contributions are deductible. This item does not apply to bonus payments paid to certain categories of employees annually during their work careers. Bonus or special payments applied only during the ‘Average Final Compensation’ period are excluded as compensation. Not including Class Three members, contributions are deductible on up to and including forty‑five days’ termination pay for unused annual leave. If a member has received termination pay for unused annual leave on more than one occasion, contributions are deductible on up to and including forty‑five days’ termination pay for unused annual leave for each termination payment for unused annual leave received by the member. However, only an amount up to and including forty‑five days’ pay for unused annual leave from the member’s last termination payment shall be included in a member’s average final compensation calculation for members eligible to have unused annual leave included in that calculation.”

**Contributions**

SECTION 28. Section 9‑11‑220(1) of the 1976 Code is amended to read:

 “(1) Commencing as of July 1, 1974, each employer shall contribute to the system seven and one‑half percent of the compensation of Class One members in its employ and a percentage of compensation for all other members in its employ as provided pursuant to Section 9‑11‑225.”

**Repeal**

SECTION 29. Sections 9‑11‑70, 9‑11‑75, and 9‑11‑310 of the 1976 Code are repealed.

Part IV

Subpart 1

South Carolina Public Employee Benefit Authority

**PEBA established**

SECTION 30. A. Title 9 of the 1976 Code is amended by adding:

“CHAPTER 4

South Carolina Public Employee Benefit Authority

Article 1

General Provisions

 Section 9‑4‑10. (A) Effective July 1, 2012, there is created the South Carolina Public Employee Benefit Authority. The governing body of the authority is a board of directors consisting of eleven members. The functions of the authority must be performed, exercised, and discharged under the supervision and direction of the board of directors.

 (B)(1) The board is composed of:

 (a) three nonrepresentative members appointed by the Governor;

 (b) two members appointed by the President Pro Tempore of the Senate, one a nonrepresentative member and one a representative member who is either an active or retired member of SCPORS;

 (c) two members appointed by the Chairman of the Senate Finance Committee, one a nonrepresentative member and one a representative member who is a retired member of SCRS;

 (d) two members appointed by the Speaker of the House of Representatives, one a nonrepresentative member and one a representative member who must be a state employee who is an active contributing member of SCRS;

 (e) two members appointed by the Chairman of the House Ways and Means Committee, one a nonrepresentative member and one a representative member who is an active contributing member of SCRS employed by a public school district.

 (2) For purposes of the appointments provided by this section, a nonrepresentative member may not belong to those classes of employees and retirees from whom representative members must be appointed.

 (C)(1) A nonrepresentative member may not be appointed to the board unless the person possesses at least one of the following qualifications:

 (a) at least twelve years of professional experience in the financial management of pensions or insurance plans;

 (b) at least twelve years academic experience and holds a bachelor’s or higher degree from a college or university as classified by the Carnegie Foundation;

 (c) at least twelve years of professional experience as a certified public accountant with financial management, pension, or insurance audit expertise;

 (d) at least twelve years as a Certified Financial Planner credentialed by the Certified Financial Planner Board of Standards; or

 (e) at least twelve years membership in the South Carolina Bar and extensive experience in one or more of the following areas of law:

 (i) taxation;

 (ii) insurance;

 (iii) health care;

 (iv) securities;

 (v) corporate;

 (vi) finance; or

 (vii) the Employment Retirement Income Security Act

 (ERISA).

 (2) A representative member may not be appointed to the board unless the person:

 (a) possesses one of the qualifications set forth in item (1); or

 (b) has at least twelve years of public employment experience and holds a bachelor’s degree from a college or university as classified by the Carnegie Foundation.

 (D) Members of the board shall serve for terms of two years and until their successors are appointed and qualify. Vacancies must be filled within sixty days in the manner of original appointment for the unexpired portion of the term. Terms commence on July first of even numbered years. Upon a member’s appointment, the appointing official shall certify to the Secretary of State that the appointee meets or exceeds the qualifications set forth in subsections (B) and (C). No person appointed may qualify unless he first certifies that he meets or exceeds the qualifications applicable for their appointment. A member serves at the pleasure of the member’s appointing authority.

 (E) The members shall select a nonrepresentative member to serve as chairman and shall select those other officers they determine necessary. Subject to the qualifications for chairman provided in this section, members may set their own policy related to the rotation of the selection of a chairman of the board.

 (F)(1) Each member must receive an annual salary of twelve thousand dollars. This compensation must be paid from approved accounts of general funds and retirement system funds based on the proportionate amount of time the board devotes to its various functions. Members may receive the mileage and subsistence authorized by law for members of state boards, commissions, and committees paid from approved accounts funded by general funds and retirement system funds in the proportion that compensation is paid.

 (2) Notwithstanding any other provision of law, membership on the board does not make a member eligible to participate in a retirement system administered pursuant to this title and does not make a member eligible to participate in the employee insurance program administered pursuant to Article 5, Chapter 11, Title 1. Any compensation paid on account of the member’s service on the board is not considered earnable compensation for purposes of any state retirement system.

 (G) Minimally, the board shall meet monthly. If the chairman considers it more effective, the board may meet by teleconferencing or video conferencing. However, if the agenda of the meeting consists of items that are not exempt from disclosure or the meeting may not be closed to the public pursuant to Chapter 4, Title 30, the provisions of Chapter 4, Title 30 apply, and the meeting must be open to the public.

 (H) Effective July 1, 2012, the following offices, divisions, or components of the State Budget and Control Board are transferred to, and incorporated into, an administrative agency of state government to be known as the South Carolina Public Employee Benefit Authority:

 (1) Employee Insurance Program; and

 (2) the Retirement Division.

 Section 9‑4‑15. RESERVED

 Section 9‑4‑20. RESERVED

 Section 9‑4‑30. (A)(1) The South Carolina Public Employee Benefit Authority shall operate a retirement division to administer the various retirement systems and retirement programs pursuant to Title 9 and, effective after December 31, 2013, to administer the deferred compensation program pursuant to Chapter 23, Title 8.

 (2) Expenses incurred by the Retirement Division in administering, after December 31, 2013, the deferred compensation plans must be reimbursed to the Retirement Division from funds generated by the deferred compensation plans available to pay for administrative expenses.

 (B) The South Carolina Public Employee Benefits Authority shall provide copies of annual actuarial valuations of all retirement systems requiring such annual valuations to the General Assembly by the second Tuesday in January of every year.

 Section 9‑4‑40. Each year in the general appropriations act, the General Assembly shall appropriate sufficient funds to the Office of the State Inspector General to employ a private audit firm to perform a fiduciary audit on the South Carolina Public Employee Benefit Authority. The audit firm must be selected by the State Inspector General. The report from the previous fiscal year must be completed by January fifteenth. Upon completion, the report must be submitted to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee.

 Section 9‑4‑45. (A) Policy determinations made by the South Carolina Public Benefit Authority are subject to approval by the State Budget and Control Board or its successor, evidenced by a majority vote of the board.

 (B) For purposes of this section, policy determination means a determination by law required to be made by the South Carolina Public Benefit Authority in its administration of the Employee Insurance Program relating to coverage changes and premium increases and in its administration of the Retirement Division, actuarial assumptions governing the retirement system and adjustments in employer and employee contributions.

 Section 9‑4‑50. (A) The South Carolina Public Employee Benefit Authority shall maintain a transaction register that includes a complete record of all funds expended, from whatever source for whatever purpose. The register must be prominently posted on the authority’s Internet website and made available for public viewing and downloading.

 (1)(a) The register must include for each expenditure:

 (i) the transaction amount;

 (ii) the name of the payee;

 (iii) the identification number of the transaction; and

 (iv) a description of the expenditure, including the source of funds, a category title, and an object title for the expenditure.

 (b) The register must include all reimbursements for expenses, but must not include an entry for:

 (i) salary, wages, or other compensation paid to individual employees; and

 (ii) retirement benefits, deferred compensation plan distributions, insurance reimbursements, or other payments paid to individual employees, members, or participants, as applicable, pursuant to programs administered by the board.

 (c) The register must not include a social security number.

 (d) The register must be accompanied by a complete explanation of any codes or acronyms used to identify a payee or an expenditure.

 (e) The register may exclude any information that can be used to identify an individual employee or student.

 (f) This section does not require the posting of any information that is not required to be disclosed under Chapter 4, Title 30.

 (2) The register must be searchable and updated at least once a month. Each monthly register must be maintained on the Internet website for at least three years.

 (B) Any information that is expressly prohibited from public disclosure by federal or state law or regulation must be redacted from any posting required by this section.

 (C) If the authority has a question or issue relating to technical aspects of complying with the requirements of this section or the disclosure of public information under this section, it shall consult with the Office of the Comptroller General, which may provide guidance to the authority.”

B. This section takes effect July 1, 2012.

Subpart 2

Conforming Amendments for the South Carolina Public Employee Benefit Authority

**Reference change**

SECTION 31. Section 1‑11‑703(9) and (10) of the 1976 Code, as added by Act 195 of 2008, is amended to read:

 “(9) ‘Board’ means the Board of Directors of the South Carolina Public Employee Benefit Authority.

 (10) ‘Employee insurance program’ or ‘EIP’ means the office of the South Carolina Public Employee Benefit Authority designated by the board to operate insurance programs pursuant to this article.”

**Reference change**

SECTION 32. Section 1‑11‑710(A) of the 1976 Code, as last amended by Act 195 of 2008, before the first item, is further amended to read:

 “(A) The board shall:”

**Reference change**

SECTION 33. Section 1‑11‑720(B) of the 1976 Code is amended to read:

 “(B) To be eligible to participate in the state health and dental insurance plans, the entities listed in subsection (A) shall comply with the requirements established by the board, and the benefits provided must be the same benefits provided to state and school district employees. These entities must agree to participate for a minimum of four years and the board may adjust the premiums during the coverage period based on experience. An entity which withdraws from participation may not subsequently rejoin during the first four years after the withdrawal date.”

**Reference change**

SECTION 34. Section 1‑11‑725 of the 1976 Code, as added by Act 353 of 2008, is amended to read:

 “Section 1‑11‑725. The board’s experience rating of all local disabilities and special needs providers pursuant to Section 1‑11‑720(A)(3) must be rated as a single group when rating all optional groups participating in the state employee health insurance program.”

**Reference change**

SECTION 35. Section 1‑11‑730(A)(2) of the 1976 Code, as last amended by Act 195 of 2008, is further amended to read:

 “(2) A member of the General Assembly who leaves office or retires with at least eight years’ credited service in the General Assembly Retirement System is eligible to participate in the state health and dental plans by paying the full premium as determined by the board.”

**Reference change**

SECTION 36. Sections 1‑11‑740 and 1‑11‑750 of the 1976 Code are amended to read:

 “Section 1‑11‑740. The Division of Insurance Services of the board may develop an optional long‑term care insurance program for active and retired members of the various state retirement systems depending on the availability of a qualified vendor. A program must require members to pay the full insurance premium.

 Section 1‑11‑750. The board shall devise a method of withholding long‑term care insurance premiums offered under Section 1‑11‑740 for retirees if sufficient enrollment is obtained to make the deductions feasible.”

**Reference change**

SECTION 37. Section 1‑11‑770(A) of the 1976 Code, before the first item, is amended to read:

 “(A) Subject to appropriations, the General Assembly authorizes the board to plan, develop, and implement a statewide South Carolina 211 Network, which must serve as the single point of coordination for information and referral for health and human services. The objectives for establishing the South Carolina 211 Network are to:”

**Reference change**

SECTION 38. A. Sections 8‑23‑20 and 8‑23‑30 of the 1976 Code, as last amended by Act 305 of 2008, are further amended to read:

 “Section 8‑23‑20.The Board of Directors of the South Carolina Public Employee Benefit Authority shall establish such rules and regulations as it deems necessary to implement and administer the Deferred Compensation Program. The board shall make such administrative appointments and contracts as are necessary to carry out the purpose and intent of this chapter and in the administration of account assets. For purposes of administering this program, an individual account shall be maintained in the name of each employee.

 The board shall select, through competitive bidding and contracts, plans for purchase of fixed and variable annuities, savings, mutual funds, insurance, and such other investments as the board may approve which are not in conflict with the State Constitution and with the advice and approval of the State Treasurer.

 Costs of administration may be paid from the interest earnings of the funds accrued as a result of deposits or as an assessment against each account.

 Section 8‑23‑30. The State or any political subdivision of the State, by contract, may agree with an employee to defer a portion of his compensation in an amount as provided for in a plan approved by the Board of Directors of the South Carolina Public Employee Benefit Authority and subsequently with the consent of the employee may contract for purchase or otherwise procure fixed or variable annuities, savings, mutual funds, insurance, or such other investments as the board may approve for the purpose of carrying out the objectives of the program with the advice and approval of the State Treasurer. The investments shall be underwritten and offered in compliance with applicable federal and state laws and regulations by persons who are authorized by the board in accordance with the provisions of this chapter.”

B. Section 8‑23‑70 of the 1976 Code is amended to read:

 “Section 8‑23‑70.The Deferred Compensation Program established pursuant to this chapter shall be in addition to retirement, pension, or benefit systems established by the State, federal government, or political subdivision and no deferral of income under the Deferred Compensation Program shall affect a reduction of any retirement, pension, social security, or other benefit provided by law. Any sum deferred under the Deferred Compensation Program shall not be subject to taxation until distribution is actually made to the employee.

 Nothing contained in this chapter shall be construed to prohibit counties, municipalities, school districts, and other political subdivisions of the State and their employees from participation in deferred compensation plans or programs offered independently of the Board of Directors of the South Carolina Public Employee Benefit Authority by building and loan or savings and loan associations, banks, trust companies, and credit unions chartered by the state or federal governments, and all such political subdivisions shall be empowered with such contractual authority as may be necessary or incident to such participation; provided, however, that (a) such deferred compensation plans or programs shall comply with applicable federal income tax law in providing income deferral, (b) all deferred amounts shall be held in accounts, certificates of deposit, or other forms of savings vehicles which are insured by the Federal Savings and Loan Insurance Corporation in the case of savings and loan associations, the Federal Deposit Insurance Corporation in the case of commercial banks, and the National Credit Union Administration in the case of credit unions.”

C. Section 8‑23‑110 of the 1976 Code, as added by Act 387 of 2000, is amended to read:

 “Section 8‑23‑110. (A) The Board of Directors of the South Carolina Public Employee Benefit Authority shall ensure that plan documents governing deferred compensation plans administered by the board permit employer contributions to the extent allowed under the Internal Revenue Code.

 (B) Political subdivisions of the State, including school districts, participating in deferred compensation plans administered by the board or such plans offered by other providers may make matching or other contributions on behalf of their participating employees.

 (C) As an additional benefit for state employees, and to the extent funds are appropriated for this purpose, the State shall make matching or other contributions on behalf of state employees participating in the deferred compensation plans offered by the board or such plans offered by other providers in an amount and under the terms and conditions prescribed for such contributions by the board.”

D. The amendments to Sections 8‑23‑20, 8‑23‑30, 8‑23‑70, and 8‑23‑110 of the 1976 Code contained in this section take effect January 1, 2014.

**Reference change**

SECTION 39. Section 9‑1‑10(6) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

 “(6) ‘Board’ means the Board of Directors of the South Carolina Public Employee Benefit Authority which shall act under the provisions of this chapter through its Division of Retirement Systems.”

**Reference change**

SECTION 40. Section 9‑1‑20 of the 1976 Code is amended to read:

 “Section 9‑1‑20. A retirement system is hereby established and placed under the management of the board for the purpose of providing retirement allowances and other benefits for teachers and employees of the State and political subdivisions or agencies or departments thereof. The system so created shall have the power and privileges of a corporation and shall be known as the ‘South Carolina Retirement System’, and by such name all of its business shall be transacted, all of its funds invested, and all of its cash, securities, and other property held.”

**Reference change**

SECTION 41. Section 9‑1‑210 of the 1976 Code is amended to read:

 “Section 9‑1‑210.The general administration and responsibility for the proper operation of the system and for making effective the provisions hereof are hereby vested in the board.”

**Reference change, Retirement System cotrustees**

SECTION 42. A. Section 9‑1‑310 of the 1976 Code, as last amended by Act 155 of 2005, is further amended to read:

 “Section 9‑1‑310.The administrative cost of the South Carolina Retirement System, the South Carolina Police Officers Retirement System, the Retirement System for Members of the General Assembly of the State of South Carolina, the Retirement System for Judges and Solicitors of the State of South Carolina, and the National Guard Retirement System must be funded from the interest earnings of the above systems. The allocation of the administrative costs of the systems must be made by the board and must be based upon a proration of the cost in proportion to the assets that each system bears to the total assets of all of the systems for the most recently completed fiscal year.”

B. Section 9‑1‑1310(A) of the 1976 Code, as last amended by Act 153 of 2005, is further amended to read:

 “(A) The South Carolina Public Employee Benefit Authority and the State Budget and Control Board, or its successor, are cotrustees of the retirement system as ‘retirement system’ is defined in Section 9‑16‑10(8) in performing the functions imposed on them by law in the governance of the Retirement System. Notwithstanding any other provision of law, any reference in law to the trustee of the Retirement System must be construed to conform to the cotrusteeship as provided in this subsection. The Retirement System Investment Commission shall invest and reinvest the funds of the retirement system as ‘retirement system’ is defined in Section 9‑16‑10(8), subject to all the terms, conditions, limitations, and restrictions imposed by Section 16, Article X of the South Carolina Constitution, subsection (B) of this section, and Chapter 16 of this title.”

**Reference change**

SECTION 43. Section 9‑1‑1515(D)(2) of the 1976 Code, as last amended by Act 100 of 1999, is further amended to read:

 “(2) A member taking early retirement may maintain coverage under the State Insurance Benefits Plan until the date his coverage is reinstated pursuant to item (1) of this subsection by paying the total premium cost, including the employer’s contribution, in the manner provided by the Division of Insurance Services of the board.”

**Reference change**

SECTION 44. Section 9‑1‑1830 of the 1976 Code is amended to read:

 “Section 9‑1‑1830. Starting July 1, 1981, there must be paid to the system, and credited to the post‑retirement increase special fund, contributions by the employers in an amount equal to two‑tenths of one percent of the earnable compensation of each member employed by each employer. In addition, the board, on the recommendation of the actuary, shall transfer a portion of the monies as are received pursuant to Section 9‑1‑1050 that are available due to actuarial gains in the system if the transfers do not adversely affect the funding status of the system. Starting July 1, 1986, all contributions previously credited to the post‑retirement increase special fund must be diverted and credited to the employer annuity accumulation fund.”

**Name changed, reference change**

SECTION 45. Chapter 2, Title 9 of the 1976 Code is amended to read:

“CHAPTER 2

Retirement and Preretirement Advisory Panel

 Section 9‑2‑10. There is created the South Carolina Retirement and Preretirement Advisory Panel for the purpose of advising the Director of the South Carolina Retirement System and the Director of the State Personnel Division on matters relating to retirement and preretirement programs and policies.

 Section 9‑2‑20. (a) The panel shall consist of eight members appointed by the Board of Directors of the South Carolina Public Employee Benefit Authority and must be constituted as follows:

 (1) one member representing municipal employees;

 (2) one member representing county employees;

 (3) three members representing state employees, one of whom must be retired and one of whom must be an active or retired law enforcement officer who is contributing to or receiving benefits from the Police Officers Retirement System. If this law enforcement member is retired, the other two members representing state employees do not have to be retired;

 (4) two members representing public school teachers, one of whom must be retired;

 (5) one member representing the higher education teachers. The board of directors shall invite the appropriate associations, groups, and individuals to recommend persons to serve on the panel.

 (b) The terms of the members shall be for four years and until their successors have been appointed and qualify. No member shall serve more than two consecutive terms. After serving two consecutive terms a member shall be eligible to serve again, four years after the expiration of his second term. Provided that of those first appointed, four of the members shall serve for a term of two years. In the event of a vacancy, a successor shall be appointed in the same manner as the original appointment to serve the unexpired term.

 (c) A chairman, vice chairman, and secretary shall be elected from among the membership to serve for terms of two years.

 Section 9‑2‑30. The panel shall meet once a year with the Director of the South Carolina Retirement System, once a year with the State Personnel Director, and once a year with the Executive Director of the South Carolina Public Employee Benefit Authority. The chairman may call additional meetings of the panel at such other times as considered necessary and shall give timely notice of such meetings.

 Section 9‑2‑40. The panel shall review retirement and preretirement programs and policies, propose recommendations, and identify major issues for consideration.

 Section 9‑2‑50. The panel is authorized to seek reasonable staff assistance from the South Carolina Retirement System, the State Personnel Division, and other state agencies which may be concerned with a particular area of study. The panel is also encouraged to use such resources as faculty and students at public universities, colleges, and technical education schools in South Carolina.”

**Reference change**

SECTION 46. Section 9‑8‑10(3) of the 1976 Code is amended to read:

 “(3) ‘Board’ means the Board of Directors of the South Carolina Public Employee Benefit Authority.”

**Reference change**

SECTION 47. Section 9‑8‑30(1) of the 1976 Code is amended to read:

 “(1) The administration and responsibility for the operation of the system and for making effective the provisions of this chapter are vested in the board.”

**Reference change**

SECTION 48. The last undesignated paragraph of Section 9‑8‑60(1) of the 1976 Code, as added by Act 164 of 1993, is amended to read:

 “A person receiving retirement allowances under this system who is elected to the General Assembly continues to receive the retirement allowances while serving in the General Assembly, and also must be a member of the retirement system unless the person files a statement with the board on a form prescribed by the board electing not to participate in the applicable system while a member of the General Assembly. A person making this election shall not make contributions to the applicable retirement system nor shall the State make contributions on the member’s behalf and the person is not entitled to benefits from the applicable retirement system after ceasing to be a member of the General Assembly.”

**Reference change**

SECTION 49. Section 9‑9‑10(3) of the 1976 Code is amended to read:

 “(3) ‘Board’ means the Board of Directors of the South Carolina Public Employee Benefit Authority.”

**Reference change**

SECTION 50. Section 9‑9‑30(1) of the 1976 Code is amended to read:

 “(1) The general administration and responsibility for the proper operation of the system and for making effective the provisions hereof are hereby vested in the board.”

**Reference change**

SECTION 51. Section 9‑10‑10(1) of the 1976 Code, as added by Act 155 of 2005, is amended to read:

 “(1) ‘Board’ means the Board of Directors of the South Carolina Public Employee Benefit Authority, acting pursuant to the provisions of this chapter through its Division of Retirement Systems.”

**Reference change**

SECTION 52. Section 9‑10‑60(D) of the 1976 Code, as added by Act 155 of 2005, is amended to read:

 “(D) The General Assembly annually shall appropriate sums sufficient to establish and maintain the National Guard Retirement System on a sound actuarial basis as determined by the board.”

**Reference change**

SECTION 53. Section 9‑11‑10(9) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

 “(9) ‘Board’ means the Board of Directors of the South Carolina Public Employee Benefit Authority acting through its Division of Retirement Systems.”

**Reference change**

SECTION 54. Section 9‑11‑30(1) of the 1976 Code is amended to read:

 “(1) The general administration and responsibility for the proper operation of the system and for making effective the provisions hereof are hereby vested in the board.”

**Reference change**

SECTION 55. Section 9‑12‑10(1) of the 1976 Code, as added by Act 311 of 2008, is amended to read:

 “(1) ‘Board’ means the Board of Directors of the South Carolina Public Employee Benefit Authority acting as trustee of the retirement systems and acting through its Division of Retirement Systems.”

**Reference change**

SECTION 56. Items (3) and (9) of Section 9‑16‑10 of the 1976 Code, as added by Act 371 of 1998, are amended to read:

 “(3) ‘Board’ means the Board of Directors of the South Carolina Public Employee Benefit Authority acting as trustee of the retirement system.

 (9) ‘Trustee’ means the Board of Directors of the South Carolina Public Employee Benefit Authority.”

**PEBA reference added**

SECTION 57. Section 9‑16‑55(F) of the 1976 Code, as added by Act 248 of 2008, is amended to read:

 “(F) Present and former board members, officers, and employees of the State Budget and Control Board, present, future, and former directors, officers, and employees of the South Carolina Public Employee Benefit Authority, the Retirement System Investment Commission, and contract investment managers retained by the commission must be indemnified from the general fund of the State and held harmless by the State from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including court costs and attorney’s fees, and against all liability, losses, and damages of any nature whatsoever that these present, future, or former board members, officers, employees, or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to this section.”

**Reference change**

SECTION 58. Section 9‑18‑10(3) of the 1976 Code, as added by Act 38 of 1995, is amended to read:

 “(3) ‘Board’ means the Board of Directors of the South Carolina Public Employee Benefit Authority.”

**Reference change**

SECTION 59. Section 9‑20‑30 of the 1976 Code, as last amended by Act 54 of 2001, is further amended to read:

 “Section 9‑20‑30. The South Carolina Retirement System shall provide for the administration of the State Optional Retirement Program under this chapter. The Director of the South Carolina Retirement System acting on behalf of the Board of Directors of the South Carolina Public Employee Benefit Authority shall designate no fewer than four companies to provide annuity contracts, mutual fund accounts, or similar investment products offered through state or national banking institutions, or a combination of them, under the program. In making the designation, selection criteria must include:

 (1) the nature and extent of the rights and benefits to be provided by the contracts or accounts, or both, of participants and their beneficiaries;

 (2) the relation of the rights and benefits to the amount of contributions to be made;

 (3) the suitability of these rights and benefits to the needs of the participants;

 (4) the ability and experience of the designated companies in providing suitable rights and benefits under the contracts or accounts, or both;

 (5) the ability and experience of the designated companies to provide suitable education and investment options.

 Companies participating in the optional retirement program for publicly supported four‑year and postgraduate institutions of higher education as of July 1, 2002, or the optional retirement program for teachers and school administrators as of July 1, 2001, may continue to participate in this program and participation is governed by their existing contracts.”

**Reference change**

SECTION 60. Section 9‑21‑20(2) of the 1976 Code, as added by Act 12 of 2003, is amended to read:

 “(2) ‘Board’ means the Board of Directors of the South Carolina Public Employee Benefit Authority.”

**Reference change**

SECTION 61. Section 59‑1‑470 of the 1976 Code is amended to read:

 “Section 59‑1‑470. Funds appropriated by the General Assembly for a deferred compensation employer matching contribution must be distributed by the State Department of Education to school districts for the purpose of providing an employer matching contribution for eligible school district employees making contributions to deferred compensation plans offered by the South Carolina Deferred Compensation Commission or, after December 31, 2013, the South Carolina Public Employee Benefit Authority, or other approved and qualified plans of other providers. These funds must be distributed in a manner consistent with the provisions of Section 8‑23‑110. The employer matching contribution by the school district may not exceed three hundred dollars for each eligible employee a year.”

**Time effective**

SECTION 62. This subpart takes effect July 1, 2012.

Subpart 3

Transfer and Devolution

Retirement System Investment Commission

**Deferred Compensation Commission abolished**

SECTION 63. Effective July 1, 2012, Section 9‑16‑310 of the 1976 Code, relating to the State Retirement Systems Investment Panel, is repealed. Effective after December 31, 2013, the Deferred Compensation Commission is abolished. All of the functions and duties of the Deferred Compensation Commission are devolved upon the Board of Directors of the South Carolina Public Employee Benefit Authority as of January 1, 2014.

**Retirement System Investment Commission**

SECTION 64. A. Section 9‑16‑315 of the 1976 Code, as added by Act 153 of 2005, is amended to read:

 “Section 9‑16‑315. (A) There is established the ‘Retirement System Investment Commission’ (RSIC) consisting of seven members as follows:

 (1) one member appointed by the Governor;

 (2) the State Treasurer, ex officio;

 (3) one member appointed by the Comptroller General;

 (4) one member appointed by the Chairman of the Senate Finance Committee;

 (5) one member appointed by the Chairman of the Ways and Means Committee of the House of Representatives;

 (6) one member who is a retired member of the retirement system. This representative member must be appointed by unanimous vote of the voting members of the commission; and

 (7) the Executive Director of South Carolina Public Employee Benefit Authority, ex officio, without voting privileges.

 (B) The State Treasurer may appoint a member to serve in his stead. A member appointed by the State Treasurer shall serve for a term coterminous with the State Treasurer and must possess at least one of the qualifications provided in subsection (E). Once appointed, this member may not be removed except as provided in subsection (C).

 (C) Except as provided in subsection (B), members shall serve for terms of five years and until their successors are appointed and qualify, except that of those first appointed, the appointees of the Comptroller General and the Chairman of the Senate Finance Committee shall serve for terms of three years and the appointee of the Chairman of the Committee on Ways and Means and the representative appointee shall serve for terms of one year. Terms are deemed to expire after June thirtieth of the year in which the term is due to expire. Members are appointed for a term and may be removed before the term expires only by the Governor for the reasons provided in Section 1‑3‑240(C).

 (D) The commission shall select one of the voting members to serve as chairman and shall select those other officers it determines necessary, but the State Treasurer may not serve as chairman.

 (E) A person may not be appointed to the commission unless the person possesses at least one of the following qualifications:

 (1) the Chartered Financial Analyst credential of the CFA Institute;

 (2) the Certified Financial Planner credential of the Certified Financial Planner Board of Standards;

 (3) reserved;

 (4) at least twenty years professional actuarial experience, including at least ten as an Enrolled Actuary licensed by a Joint Board of the Department of the Treasury and the Department of Labor, to perform a variety of actuarial tasks required of pension plans in the United States by the Employee Retirement Income Security Act of 1974;

 (5) at least twenty years professional teaching experience in economics or finance, ten of which must have occurred at a doctorate‑granting university, master’s granting college or university, or a baccalaureate college as classified by the Carnegie Foundation;

 (6) an earned Ph.D. in economics or finance from a doctorate‑granting institution as classified by the Carnegie Foundation; or

 (7) the Certified Internal Auditor credential of The Institute of Internal Auditors.

 (F) Not including the State Treasurer, no person may be appointed or continue to serve who is an elected or appointed officer or employee of the State or any of its political subdivisions, including school districts.

 (G) The Retirement System Investment Commission is established to invest the funds of the retirement system. All of the powers and duties of the State Budget and Control Board as investor in equity securities and the State Treasurer’s function of investing in fixed income instruments are transferred to and devolved upon the Retirement System Investment Commission. To assist the commission in its investment function, it shall employ a chief investment officer, who under the direction and supervision of the commission, and as its agent, shall develop and maintain annual investment plans and invest and oversee the investment of retirement system funds. The chief investment officer serves at the pleasure of the commission and must receive the compensation the commission determines appropriate. The commission may employ the other professional, administrative, and clerical personnel it determines necessary and fix their compensation. All employees of the commission are employees at will. The compensation of the chief investment officer and other employees of the commission is not subject to the state compensation plan.

 (H)(1) The administrative costs of the Retirement System Investment Commission must be paid from the earnings of the state retirement system in the manner provided in Section 9‑1‑1310.

 (2) Effective beginning July 1, 2012, each commission member, not including the Executive Director of the South Carolina Public Employee Benefit Authority, must receive an annual salary of twenty thousand dollars plus mileage and subsistence as provided by law for members of state boards, committees, and commissions paid as provided pursuant to item (1) of this subsection. Notwithstanding any other provision of law, membership on the commission does not make a member eligible to participate in a retirement system administered pursuant to this title and does not make a member eligible to participate in the employee insurance program administered pursuant to Article 5, Chapter 11, Title 1. Compensation paid on account of the member’s service on the commission is not considered earnable compensation for purposes of any retirement system administered pursuant to this title.”

B. Article 3, Chapter 16, Title 9 of the 1976 Code is amended by adding:

 “Section 9‑16‑380. Each year in the general appropriations act, the General Assembly shall appropriate sufficient funds to the Office of the State Inspector General to employ a private audit firm to perform a fiduciary audit on the Retirement System Investment Commission. The audit firm must be selected by the State Inspector General. The report from the previous fiscal year must be completed by January fifteenth. Upon completion, the report must be submitted to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee.”

C. Notwithstanding the provision of Section 9‑16‑315(E) as amended in this section, appointed members of the Retirement System Investment Commission serving on June 30, 2012, shall continue to serve for the remainder of their current and any succeeding terms for which they are appointed, after which their successors must have a qualification described in Section 9‑16‑315(E) as amended by this section.

**Transition**

SECTION 65. (A) Where the provisions of this act transfer portions of the Budget and Control Board to the South Carolina Public Employee Benefit Authority, the employees, authorized appropriations, and assets and liabilities of the transferred portions of the Budget and Control Board are also transferred to and become part of the South Carolina Public Employee Benefit Authority. All classified or unclassified personnel employed by the transferred portions of the Budget and Control Board either by contract or by employment at will, shall become on July 1, 2012, employees of the South Carolina Public Employee Benefit Authority, with the same compensation, classification, and grade level, as applicable. Before its abolition, the Budget and Control Board shall cause all necessary actions to be taken to accomplish this transfer in accordance with state laws and regulations. Notwithstanding the provisions of Section 9‑4‑10(A) of the 1976 Code, as added by this act, on the effective date of this section, the Governor and the Chairmen of the House Ways and Means Committee and the Senate Finance Committee jointly shall appoint the initial and any necessary succeeding Executive Director of the South Carolina Public Employee Benefit Authority to serve through December 31, 2013, after which the position must be filled by the appointment of the authority board. Notwithstanding the provisions of Section 9‑4‑10(F) of the 1976 Code, as added by this act, the Governor shall name a member of the Board of Directors of the South Carolina Public Employee Benefit Authority to serve as chairman of that board through December 31, 2013.

 (B) Regulations promulgated by the transferred portions of the Budget and Control Board are continued and are considered to be promulgated by the South Carolina Public Employee Benefit Authority. Contracts entered into by the Budget and Control Board and the Deferred Compensation Commission are continued and are considered to be devolved upon the South Carolina Public Employee Benefit Authority at the time of the transfer.

 (C) The Code Commissioner is directed to change or correct all references to the Employee Insurance Program, the Retirement Division, and the Deferred Compensation Commission to reflect its transfer to the South Carolina Public Employee Benefit Authority. References to the name of the Employee Insurance Program, the Retirement Division, and the Deferred Compensation Commission in the 1976 Code or other provisions of law are considered to be and must be construed to mean appropriate references.

**Retirement allowance eligibility**

SECTION 66. A. Section 9‑1‑1660 of the 1976 Code, as last amended by Act 387 of 2000, is further amended by adding two new subsections at the end to read:

 “(C) Regardless of whether a member is in service, if a member dies before retirement and, at the time of the member’s death, was eligible to receive a service retirement allowance pursuant to Section 9‑1‑1510 or Section 9‑1‑1515, the person nominated by a member to receive the full amount of the member’s accumulated contributions if the member dies before retirement may elect to receive, in lieu of the accumulated contributions, an allowance for life in the same amount as if the deceased member had retired at the time of the member’s death and had named the person as beneficiary under an election of Option B of Section 9‑1‑1620(A).

 (D) If a member has designated more than one beneficiary for the receipt of the member’s accumulated contributions if the member dies before retirement, and if those beneficiaries become eligible to elect an allowance pursuant to this section upon the member’s death, all of the beneficiaries must elect the allowance in order for the allowance to become payable in lieu of the return of accumulated contributions.”

B. Section 9‑11‑130 of the 1976 Code, as last amended by Act 387 of 2000, is further amended by adding two new subsections at the end to read:

 “(3) Regardless of whether a member is in service, if a member dies before retirement and, at the time of the member’s death, was eligible to receive a service retirement allowance pursuant to Section 9‑11‑60 or Section 9‑11‑70, the person nominated by a member pursuant to Section 9‑11‑110 to receive a lump sum amount if the member dies before retirement may elect to receive, in lieu of the lump sum amount otherwise payable, an allowance for life in the same amount as if the deceased member had retired at the time of the member’s death and had named the person as beneficiary under an election of Option B under Section 9‑11‑150(A).

 (4) If a member has designated more than one beneficiary pursuant to Section 9‑11‑110 to receive a lump sum amount if the member dies before retirement, and if those beneficiaries become eligible to elect an allowance pursuant to this section upon the member’s death, all of the beneficiaries must elect the allowance in order for the allowance to become payable in lieu of the lump sum amount otherwise payable.”

Subpart 4

Effective Date of this Part

**Time effective**

SECTION 67. Except where otherwise provided, this Part takes effect July 1, 2012.

Part V

Provisions Applying to More Than One Retirement System

**Assumed rate of return**

SECTION 68. Article 3, Chapter 16, Title 9 of the 1976 Code is amended by adding:

 “Section 9‑16‑335. For all purposes of this title, the assumed annual rate of return on the investments of the Retirement System must be established by the General Assembly pursuant to this section. Effective July 1, 2012, the assumed annual rate of return on retirement system investments is seven and one‑half percent.”

**Member accounts**

SECTION 69. A. Section 9‑1‑1135 of the 1976 Code, as added by Act 311 of 2008, is amended to read:

 “Section 9‑1‑1135. (A) Interest must be credited to the account of each member once each year as of June thirtieth, on the basis of the balance in the account of each member as of the previous June thirtieth. Upon the death, retirement, or termination of a member, interest must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in the member’s account as of the June thirtieth immediately preceding the date of refund or retirement.

 (B) Notwithstanding subsection (A), interest must not be credited to an inactive member account. For purposes of this subsection, a member account becomes inactive on July first if no contributions were made to the account in the preceding twelve months.”

B. Section 9‑8‑185 of the 1976 Code, as added by Act 311 of 2008, is amended to read:

 “Section 9‑8‑185. (A) Interest must be credited to the account of each member once each year as of June thirtieth, on the basis of the balance in the account of each member as of the previous June thirtieth. Upon the death, retirement, or termination of a member, interest must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in the member’s account as of the June thirtieth immediately preceding the date of refund or retirement.

 (B) Notwithstanding subsection (A), interest must not be credited to an inactive member account. For purposes of this subsection, a member account becomes inactive on July first if no contributions were made to the account in the preceding twelve months.”

C. Section 9‑9‑175 of the 1976 Code, as added by Act 311 of 2008, is amended to read:

 “Section 9‑9‑175. (A) Interest must be credited to the account of each member once each year as of June thirtieth, on the basis of the balance in the account of each member as of the previous June thirtieth. Upon the death, retirement, or termination of a member, interest must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in the member’s account as of the June thirtieth immediately preceding the date of refund or retirement.

 (B) Notwithstanding subsection (A), interest must not be credited to an inactive member account. For purposes of this subsection, a member account becomes inactive on July first if no contributions were made to the account in the preceding twelve months.”

D. Section 9‑11‑265 of the 1976 Code, as added by Act 311 of 2008, is amended to read:

 “Section 9‑11‑265. (A) Interest must be credited to the account of each member once each year as of June thirtieth, on the basis of the balance in the account of each member as of the previous June thirtieth. Upon the death, retirement, or termination of a member, interest must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in the member’s account as of the June thirtieth immediately preceding the date of refund or retirement.

 (B) Notwithstanding subsection (A), interest must not be credited to an inactive member account. For purposes of this subsection, a member account becomes inactive on July first if no contributions were made to the account in the preceding twelve months.”

Part VI

Miscellaneous, Effective Date

**Magistrates**

SECTION 70. Section 22‑1‑15(C) of the 1976 Code is amended to read:

 “(C) The provisions of Section 22‑1‑10(B)(2)(b) do not apply to a magistrate serving on June 30, 2005, during his tenure in office, and do not apply to a magistrate serving after June 30, 2005, who retires and is reappointed within one year of the date of his retirement and during his tenure in office for the new appointment.”

**Study**

SECTION 71. The Human Resources Division of the State Budget and Control Board, or its successor, shall conduct a study to determine an appropriate level of compensation for statewide constitutional officers and members of the General Assembly and make a report with any recommendations for salary adjustments to the General Assembly no later than January 15, 2013.

**Study**

SECTION 72. The Public Employee Benefit Authority, through its Retirement Systems Division, shall conduct a study of the impact of the costs to SCRS and SCPORS of compensation “spiking” on the calculation of average final compensation for retirees of those retirement systems. The report and any accompanying recommendations must be completed and forwarded to the Governor and the General Assembly no later than April 15, 2013.

**Study**

SECTION 73. The Retirement Division shall conduct a study on revisions to the eligibility for disability retirement under the various retirement systems established pursuant to Title 9 of the 1976 Code and make a report with recommendations no later than December 1, 2012, to the Senate Finance Committee and the House Ways and Means Committee. The chairmen of those committees shall appoint a joint committee to consider that report and recommendations.

**Severability clause**

SECTION 74. If any part, section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every part, section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other parts, sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Savings clause**

SECTION 75. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

**Time effective**

SECTION 76. Except where otherwise stated, this act takes effect July 1, 2012.

Ratified the 22nd day of June, 2012.

Approved the 26th day of June, 2012.

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