

**REPORT OF THE  
GENERAL GOVERNMENT,  
PERSONNEL & BENEFITS SUBCOMMITTEE**  
(Cobb-Hunter, Herbkersman, Hayes, Moss & Gagnon - Staff Contact: Ryan Tooley)

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**HOUSE BILL 3425**

H. 3425 -- Reprs. Pope, Thayer, Gilliam, S. Jones, Wooten, B. Newton, McCravy, Lawson, Leber, Atkinson, Forrest and Robbins: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 9-11-90, RELATING TO THE EARNINGS LIMITATION UPON RETURN TO COVERED EMPLOYMENT IN THE SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM, SO AS TO PROVIDE THAT THE EARNINGS LIMITATION DOES NOT APPLY IN CERTAIN CIRCUMSTANCES; AND BY AMENDING SECTION 9-1-1790, RELATING TO THE EARNINGS LIMITATION UPON RETURN TO COVERED EMPLOYMENT IN THE SOUTH CAROLINA RETIREMENT SYSTEM, SO AS TO PROVIDE THAT THE EARNINGS LIMITATION DOES NOT APPLY IN CERTAIN CIRCUMSTANCES.

***Received by Ways and Means:*** 12/8/22

***Summary of Bill:***

This bill removes the earnings limitation for a retiree of the Police Officers Retirement System (PORS) if: (A) The retiree did not work for the last twelve (12) months for a covered employer; or, (B) The retiree is returning to a critical need law enforcement position as determined by The Law Enforcement Training Council. Additionally, the bill removes the earning limitation for retirees of the South Carolina Retirement System (SCRS) who have not worked for a covered employer for twelve (12) months. These qualifications would be known as "exceptions" to the earnings limitation. For the critical need exception, The Law Enforcement Training Council is required to: Review and approve documentation provided by the employer who is hiring the retiree in a critical need position proving there is no non-retiree available for it. Submit a report showing which positions are deemed critical need to the General Assembly each year for approval. Develop guidelines and curriculum for officers to be recertified, but may not require recertification through basic training.

***Estimated Revenue Impact:***

RFA has estimated that the twelve-month break-in-service exception, which is currently in proviso, being codified by this bill would have no fiscal impact on both SCRS and PORS. This is further supported by an external

"THE BELOW CONSTITUTED SUMMARY IS PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND IS NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. IT IS STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND IS NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT".

analysis by an actuarial service for PEBA. This is because they anticipate most retirees will not want to return to work after 12 months. The critical need exception would have a fiscal impact of increasing the unfunded actuarial accrued liability of PORS by \$73,000,000. This is because 2,095 PORS members are eligible for retirement but have not. If they retire and begin withdrawing benefits, they will pull more funds than they contribute, thus increasing the unfunded liability of PORS. If the General Assembly wanted to maintain the current funding period, a one-time infusion of \$88,000,000 would be required for PORS. RFA estimates there would be no fiscal impact on the Law Enforcement Training Council.

***Other Notes/Comments:***

The current funding period goal for PORS was established in Act 13 of 2017, which set it at 30 years.

Reported favorable with amendment.

**SOUTH CAROLINA**  
**HOUSE AMENDMENT**

AMENDMENT NO. \_\_\_\_\_

Samantha Allen  
April 19, 2023

ADOPTED	REJECTED	TABLED	ADJOURN DEBATE	RECONSIDERED	ROO

\_\_\_\_\_  
Clerk of the House

ADOPTION NO. \_\_\_\_\_

**BILL NO: H. 3425**

(Reference is to the original version)

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The General Government Subcommittee proposes the following amendment (LC-3425.SA0001H):

Amend the bill, as and if amended, SECTION 1, by striking Section 9-11-90(4)(a)(ii)(B) and (C) and inserting:

(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;

Amend the bill further, SECTION 2, by striking Section 9-1-1790(A)(2)(b) and (c) and



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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*This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.*

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**Bill Number:** H. 3425    Introduced on January 10, 2023  
**Author:** Pope  
**Subject:** PORS Earnings Limitations  
**Requestor:** House Ways and Means  
**RFA Analyst(s):** Miller  
**Impact Date:** April 19, 2023

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### **Fiscal Impact Summary**

This bill removes the earnings limitation for a retiree of the Police Officers Retirement System (PORS) if the employee is separated from covered employment for at least twelve months before returning to covered employment, or if the retiree returns to employment in a critical needs law enforcement position. The bill additionally removes the earnings limitation for a retiree of the South Carolina Retirement System (SCRS) if the employee is separated from covered employment for at least twelve months before returning to covered employment.

This bill will increase the unfunded actuarial accrued liability of PORS by \$73,000,000. Should the General Assembly choose to fund this increase, this bill will result in a one-time increase of \$88,000,000 in expenditures in FY 2023-24. However, this bill will have no expenditure impact on SCRS due to the twelve-month separation provision.

This bill will have no expenditure impact on the Law Enforcement Training Council for reviewing and approving critical needs position documentation, preparing annual reports, and developing guidelines and curriculums.

### **Explanation of Fiscal Impact**

#### **Introduced on January 10, 2023**

#### **State Expenditure**

This bill removes the earnings limitation for a retiree of PORS if the employee is separated from covered employment for at least twelve months before returning to covered employment, or if the retiree returns to employment in a critical needs law enforcement position. The Law Enforcement Training Council (council) is required to determine if a position is a critical needs position by reviewing and approving documentation provided by a covered employer. By January 1, 2024, and each year thereafter, the council is required to submit a report to the chairman of the Senate Finance Committee and the chairman of the House Ways and Means Committee of the positions requested for inclusion in the earnings limitation exception for the following fiscal year. The General Assembly must approve positions in the report submitted by the council. Furthermore, the council is required to develop guidelines and curriculum for these officers to be recertified and may not require recertification through basic training for those that have been inactive for a year or more.

Additionally, the bill removes the earnings limitation for a retiree of SCRS if the employee is separated from covered employment for at least twelve months before returning to covered employment.

Currently, a member of PORS who retires prior to age fifty-seven, returns to employment that is covered by PORS, and earns more than \$10,000 in a calendar year is subject to an earnings limitation which discontinues the member's retirement benefits in that year. Members of SCRS are similarly subject to the earnings limitation when retiring prior to age sixty-two. PEBA indicates that a change to the earning limitation may increase the number of reemployed retirees and lead to more workers electing to retire at an earlier age. This will result in a higher actuarial accrued liability and increase normal cost or cost of service earned towards an active member's benefit in a given year, since a member's retirement benefit is funded over a shorter career. For the retirement systems to attain a 100 percent funded ratio at the same projected date, the amortization cost will need to increase.

PEBA reports that the provisions allowing SCRS and PORS members to return to covered employment after a twelve-month separation and be exempt from the earnings limitation will have no fiscal impact on SCRS or PORS. PEBA views the twelve-month period as sufficiently long enough such that there will be no measurable change in retirement behavior.

PEBA reports that the critical needs provision for PORS retirees will have an expenditure impact on PORS. There are approximately 2,095 PORS members that are younger than age 57 and eligible to retire. Assuming that some members will retire earlier than they otherwise would to take advantage of the critical needs provision, PEBA estimates that the unfunded actuarial accrued liability will increase by \$73,000,000. PEBA indicates the necessary one-time appropriation to maintain the current funding period is \$88,000,000. If the General Assembly chooses to fund this increase, this bill will result in a one-time increase of \$88,000,000 in General Fund, Other Funds, and Federal Funds expenditures in FY 2023-34.

RFA anticipates this bill will have no expenditure impact on the Law Enforcement Training Council for reviewing and approving critical needs position documentation, preparing annual reports, and developing guidelines and curriculums.

**State Revenue**


N/A

**Local Expenditure**

N/A

**Local Revenue**

N/A



Frank A. Rainwater, Executive Director

**South Carolina General Assembly**  
125th Session, 2023-2024

**H. 3425**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Pope, Thayer, Gilliam, S. Jones, Wooten, B. Newton, McCravy, Lawson, Leber, Atkinson, Forrest and Robbins

Document Path: LC-0029SA23.docx

Introduced in the House on January 10, 2023

Currently residing in the House

Summary: PORS Earnings Limitations

**HISTORY OF LEGISLATIVE ACTIONS**

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
12/8/2022	House	Prefiled
12/8/2022	House	Referred to Committee on <b>Ways and Means</b>
1/10/2023	House	Introduced and read first time (House Journal-page 165)
1/10/2023	House	Referred to Committee on <b>Ways and Means</b> (House Journal-page 165)
1/12/2023	House	Member(s) request name added as sponsor: Forrest
1/25/2023	House	Member(s) request name added as sponsor: Robbins

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**A BILL**

11 TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 9-11-90,  
12 RELATING TO THE EARNINGS LIMITATION UPON RETURN TO COVERED EMPLOYMENT  
13 IN THE SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM, SO AS TO PROVIDE  
14 THAT THE EARNINGS LIMITATION DOES NOT APPLY IN CERTAIN CIRCUMSTANCES;  
15 AND BY AMENDING SECTION 9-1-1790, RELATING TO THE EARNINGS LIMITATION  
16 UPON RETURN TO COVERED EMPLOYMENT IN THE SOUTH CAROLINA RETIREMENT  
17 SYSTEM, SO AS TO PROVIDE THAT THE EARNINGS LIMITATION DOES NOT APPLY IN  
18 CERTAIN CIRCUMSTANCES.

19

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

21

22 SECTION 1. Section 9-11-90(4)(a)(ii) of the S.C. Code is amended to read:

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

26

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

27

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

28

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

32

33 (D) the member has not been engaged to perform services for a participating employer in  
34 the system or any other system provided in this title for compensation in any capacity, whether as an  
35 employee, independent contractor, leased employee, joint employee, or other classification of worker,  
36 for a period of at least twelve consecutive months subsequent to retirement. The exemption provided  
37 under this subitem does not apply unless the member first certifies to the system that he satisfies the  
38 requirements for the exemption. If a member inaccurately certifies that he satisfies the requirements  
39 for the exemption provided in this subitem, the member is responsible for reimbursing the system for  
40 any benefits wrongly paid to the member; or

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42 (E) compensation received by the retired member from the covered employer is for  
employment in a critical needs law enforcement position as determined by the Law Enforcement  
Training Council. For the provisions of this subitem to apply, the Law Enforcement Training Council

1 must review and approve, from the documentation provided by the covered employer, that no qualified,  
2 nonretired member is available for employment in the position, and that the member selected for  
3 employment meets the requirements of this subitem. No later than January 1, 2024, and each January  
4 first thereafter, the Law Enforcement Training Council must submit a report to the Chairman of the  
5 Senate Finance Committee and the Chairman of the House Ways and Means Committee of the positions  
6 requested for inclusion in the earnings limitation exception under this subitem for the following fiscal  
7 year. Effective July 1, 2024, and each July first thereafter, the earnings limitation exception provided  
8 in this subitem only applies to those positions approved by action of the General Assembly for the  
9 fiscal year in response to the report submitted by the Law Enforcement Training Council. The Law  
10 Enforcement Training Council shall develop guidelines and curriculum for these officers to be  
11 recertified and may not require recertification through basic training for those that have been inactive  
12 for a year or more.

13  
14 SECTION 2. Section 9-1-1790(A)(2) of the S.C. Code is amended to read:

15  
16 (2) The earnings limitation imposed pursuant to this item does not apply if the member meets at  
17 least one of the following qualifications:

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

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

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

24 (d) the member has not been engaged to perform services for a participating employer in the  
25 system or any other system provided in this title for compensation in any capacity, whether as an  
26 employee, independent contractor, leased employee, joint employee, or other classification of worker,  
27 for a period of at least twelve consecutive months subsequent to retirement. The exemption provided  
28 under this subitem does not apply unless the member first certifies to the system that he satisfies the  
29 requirements for the exemption. If a member inaccurately certifies that he satisfies the requirements  
30 for the exemption provided in this subitem, the member is responsible for reimbursing the system for  
31 any benefits wrongly paid to the member.

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33 SECTION 3. This act takes effect upon approval by the Governor.

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