

**DETAILED SUMMARY**  
**JOINT COMMITTEE ON PENSION SYSTEMS REVIEW**

**S. / H. .**

**RETIREMENT SYSTEM FUNDING AND ADMINISTRATION ACT**

**February 8, 2017**

**I. PART I: FUNDING OF THE RETIREMENT SYSTEM**

**A. Section 1- Amendments to §9-1-1085 regarding contribution rates for the South Carolina Retirement System (SCRS)**

1. Changes employer and employee contribution rates beginning July 1, 2017 (FY 18).
2. Sets forth employer contribution rate increases beginning with FY 18 through FY 23. In FY 18, the rate increases 2% from the current rate of 11.56% to 13.56%. Each year thereafter, the rate increases 1%, until it reaches 18.56% in FY 23.
3. The employer rate will remain at 18.56% from FY 23 through FY 27. Beginning with FY 28, the PEBA Board of Directors may adjust the employer contribution rate by no more than .5% in any year based on the actuarial valuation. No change was made to this current practice in statute.
4. Increases the employee contribution rate from the current rate of 8.66% to 9% beginning July 1, 2017 (FY 18), and places a cap on the employee rate, such that future increases cannot be made above 9%.
5. Decouples employer/employee contributions to eliminate the required 2.9% differential between the two rates.
6. Should the General Assembly fund the SCRS employer rate increases for general fund agencies and the EIA (school districts), the recurring cost would be \$66.8 M for FY 18, and an additional \$33.4 M for each of the next five years (FY 19-23). (Note the total cost contemplated for both SCRS and PORS is \$73.6 M for FY 18, and an additional \$36.8 M for each of the next 5 years.)
7. If the General Assembly provides a line item appropriation to cover a portion of the required increase in a given year, the contribution rate increase otherwise expected would be reduced accordingly.
8. Reduces the funding period (or amortization period) of unfunded liabilities from 30 years to 20 years over the next 10 years in an orderly manner. A schedule is included that requires the funding period to meet at a minimum a cumulative 10 year reduction in the funding period over the next 10 years (by FY 28). While the schedule reflects a one year reduction in the funding period for each of the next 10 years, it allows for future unforeseen investment losses by not locking in a required lower funding period each year. *(Example: The funding period is reduced by year 6 to 21 years as a result of contribution rate increases and good investment returns, a 9 year reduction in the current funding period of 30 years. In year 7, unforeseen investment losses or other actuarial experiences result in the funding period remaining static at 21 years. Because the schedule requires that that funding period be at most 24 years at year 7, the schedule is met, and the General Assembly is not required to appropriate additional funds to meet the amortization period. At the same time, the funding period is required to be 20 years at the most by FY 28.)* The actuarial projection based on the contemplated contribution increases and expected lower investment returns for 5 years is that the funding period will be at 20 years by FY 24.
9. Requires PEBA to notify employers in SCRS of any contribution rate increase required as a result of not meeting the funding period schedule one year before the increase takes effect.
10. Clarifies that after FY 27, if the funded ratio of the system is 85% or more (reduced from 90% currently), employer and employee contribution rates may be decreased in

equal amounts, so long as the decrease would not result in a funded ratio of less than 85%.

11. Clarifies that should employer and employee contribution rates be decreased after FY 27, and the funded ratio, thereafter, falls below 85% (currently 90%), both employer and employee rates may be increased in equal amounts, subject, however, to the employee contribution rate cap of 9.00%. Any increase required after the employee rate equals 9.00% must be an increase in the employer rate.

**B. Section 2- Amendments to §9-11-225 regarding contribution rates for the Police Officers Retirement System (PORS)**

1. Changes employer and employee contribution rates beginning July 1, 2017 (FY 18).
2. Sets forth employer contribution rate increases beginning with FY 18 through FY 23. In FY 18, the rate increases from the current rate of 14.24% to 16.24%. Each year thereafter, the rate increases 1%, until it reaches 21.24% in FY 24.
3. The employer rate will remain at 21.24% from FY 23 through FY 27. Beginning with FY 28, the PEBA Board of Directors may adjust the employer contribution rate by no more than .5% in any year based on the actuarial valuation. No change was made to this current practice in statute.
4. Increases the employee contribution rate from the current rate of 9.24% to 9.75% beginning July 1, 2017 (FY 18), and places a cap on the employee rate, such that future increases cannot be made above 9.75%.
5. Decouples employer/employee contributions to eliminate the required 5% differential between the two rates.
6. Should the General Assembly fund the PORS employer rate increases for general fund agencies, the cost would be \$6.8 M for FY 18, and an additional \$3.4 M for each of the next five years (FY 19-23). (Note the total cost contemplated for both SCRS and PORS is \$73.6 M for FY 18, and an additional \$36.8 M for each of the next 5 years.)
7. If the General Assembly provides a line item appropriation to cover a portion of the required increase in a given year, the contribution rate increase otherwise expected would be reduced accordingly.
8. Reduces the funding period (or amortization period) of unfunded liabilities from 30 years to 20 years over the next 10 years in an orderly manner. A schedule is included that requires the funding period to meet at a minimum a cumulative 10 year reduction in the funding period over the next 10 years (by FY 28). While the schedule reflects a one year reduction in the funding period for each of the next 10 years, it allows for future unforeseen investment losses by not locking in a required lower funding period each year. *(Example: The funding period is reduced by year 6 to 21 years as a result of contribution rate increases and good investment returns, a 9 year reduction in the current funding period of 30 years. In year 7, unforeseen investment losses or other actuarial experiences result in the funding period remaining static at 21 years. Because the schedule requires that that funding period be at most 24 years at year 7, the schedule is met, and the General Assembly is not required to appropriate additional funds to meet the amortization period. At the same time, the funding period is required to be 20 years at the most by FY 28.)* The actuarial projection based on the contemplated contribution increases and expected lower investment returns for 5 years is that the funding period will be at 20 years by FY 24. This is identical to the language and schedule for the SCRS in Section 1.
9. Requires PEBA to notify employers in PORS of any contribution rate increase required as a result of not meeting the funding period schedule one year before the increase takes effect.
10. Clarifies that after FY 27, if the funded ratio of the system is 85% or more (reduced from 90% currently), employer and employee contribution rates may be decreased in

equal amounts, so long as the decrease would not result in a funded ratio of less than 85%.

11. Clarifies that should employer and employee contribution rates be decreased after FY 27, and the funded ratio, thereafter, fall below 85% (currently 90%), both employer and employee rates may be increased in equal amounts, subject, however, to the employee contribution rate cap of 9.75%. Any increase required after the employee rate equals 9.75% must be an increase in the employer rate.

**C. Section 3- Amendments to §9-16-335 regarding establishing a new assumed rate of return beginning FY 18, and authorizing the PEBA Board of Directors to establish the assumed rate of return every four years thereafter.**

1. Effective July 1, 2017 (FY 18), lowers the current assumed annual rate of return of 7.5% to 7.25%. This is the rate recommended by GRS in its last experience study.
2. The assumed rate of return expires July 1, 2021 and every four years thereafter. No later than January 1, 2021, and every subsequent four years, PEBA must submit a proposed annual rate of return which is developed based on the recommendation of its actuary and in consultation with the RSIC, as well as submitted to the Chairmen of the Senate Finance Committee and House Ways and Means Committee. If the General Assembly fails to enact a joint resolution to enact a rate of return, the submitted rate stands.
3. PEBA has the flexibility to recommend a new rate of return earlier (the actuary will have completed its report by March 2020); however, in order for a new rate to be effective earlier, the General Assembly would have to enact a joint resolution to adopt PEBA's recommendation and amend the rate earlier than the expiration of the then current rate.

**II. PART II: PUBLIC EMPLOYEE BENEFIT AUTHORITY**

**A. Section 4- Amendments to §9-4-10 regarding the membership of the Board of Directors and the definition of the Executive Director of PEBA.**

1. Requires diversity as a consideration in the selection of new appointees.
2. Expands the term of appointment from two years to five years.
3. Staggers the terms with gubernatorial appointee terms expiring 6/30/18, non-representative members appointed by General Assembly expiring 6/30/19 and representative members appointed by the General Assembly expiring 6/30/20. (Current board members were appointed on July 1, 2016).
4. States that members may be removed only for cause by the Governor.
5. Members are limited to serving two terms. (Members who will have served five years plus at the expiration of their current term may serve one additional term.)
6. Requires PEBA to meet quarterly versus monthly.
7. PEBA Board employs an Executive Director who serves at the pleasure of the Board.
8. PEBA Board and Executive Director are named as fiduciaries.
9. Imposes penalties for not fulfilling fiduciary responsibilities, identical to that already in statute for the RSIC. Subject to the indemnification provisions and the obligation to defend pursuant to existing statute, a fiduciary that breaches a duty:
  - i. Shall be personally liable for losses;
  - ii. Shall be subject to removal and other equitable remedies ordered by a court;
  - iii. Shall not have any liability limited by agreement;
  - iv. May be insured by PEBA against losses because of a fiduciary breach; and
  - v. May insure themselves (with their own funds) against personal liability or losses because of a fiduciary breach.

**B. Section 5- Amendment to §9-4-40 regarding schedule of fiduciary audits.**

1. Sets a rotation schedule for the PEBA fiduciary audit for every four years with the next audit scheduled for FY 18-19.
2. Transfers the responsibility to select and employ a private audit firm to perform a fiduciary audit from the State Inspector General to the State Auditor.

**III. PART III: RETIREMENT SYSTEM INVESTMENT COMMISSION**

**A. Section 6- Amendment to §9-16-10(4) regarding the definition of “fiduciaries” of the RSIC.**

1. Adds the CEO of the RSIC as a fiduciary of the commission. The current statutory definition already includes members of the commission and the commission's chief investment officer.

**B. Section 7- Amendment to §9-16-90(B) regarding required fee reporting by the RSIC.**

1. Sets forth a schedule of net manager fees and expenses that must be reported to the SFAA, RFAO, Executive Budget Office, Speaker of the House, and President Pro Tempore of the Senate, and which must be included in the RSIC's annual report and published on the RSIC's website.

**C. Section 8- Amendments to §9-16-315 regarding RSIC Board membership and Chief Executive Officer (CEO).**

1. Increases the total membership of the commission from 7 to 8 members, and increases the number of voting members from 6 to 7, thus eliminating the possibility of a tie vote. This is in compliance with Funston's recommendation to add 1 or 3 voting members.
2. Requires the Treasurer to appoint a member rather than serve himself.
3. Reforms the appointment of the existing retiree representative appointed by the voting members of the commission by directing the President Pro Tempore of the Senate to make this appointment. The appointee must be a retired member of either SCRS, PORS, JSRS or NGRS.
4. Adds an additional appointment of an active member of either SCRS, PORS, JSRS or NGRS made by the Speaker of the House of Representatives.
5. All members, except for the Executive Director of PEBA, must certify that they meet or exceed the qualifications set forth for commissioners by statute, and the appointing official must certify such qualifications to the Secretary of State. This certification process is the same as that for PEBA board members in statute.
6. Requires diversity as a consideration in the selection of new appointees.
7. Members are limited to two five-year terms. (Members who are currently serving a second or greater term may not serve an additional term.)
8. Requires Certified Financial Planners to have 12 years professional experience (same as such experience for the PEBA board).
9. Adds as a qualifying characteristic a certified Chartered Alternative Investment Analyst.
10. Adds as a qualifying characteristic twelve years' experience in financial management of pensions or insurance plans.
11. Adds as a qualifying characteristic twelve years' experience as a certified public accountant with financial management, pension or insurance audit experience.
12. Removes the requirement that employees of the State or its political subdivisions may not serve on the commission so that, except for the active and retired members appointed by President Pro Tempore of the Senate and the Speaker of the House, no elected or appointed officer may serve.

13. Defines the role of the RSIC Chief Executive Officer (CEO), who is employed by and serves at the will of the commission, and sets his duties. Changes the model so that the CEO, not the commission, employs the Chief Investment Officer and support staff.
14. All employees (including the CIO) serve at the pleasure of the CEO.
15. The CEO is delegated the authority to carry out the decisions of the commission, including executing documents necessary to implement final investment decisions.
16. The Commission may engage attorneys in consultation with the Attorney General (however, a formal approval letter by the AG would no longer be necessary) on a fee basis for investment and management of assets. The RSIC must establish policies and procedures for the retention of attorneys. Once an attorney is retained, the RSIC must provide notice to the AG of the terms and conditions of the retained attorney's representation, and must provide a quarterly report to the AG with fee and rate information specific to the retained attorney, and the Attorney General shall monitor such fees for reasonableness and to ensure consistency with the terms and conditions of the representation.

**D. Section 9- Amendments to §9-16-330 regarding permissive delegation to CIO to invest funds.**

1. The commission may choose to delegate to the CIO, under the direct oversight of the CEO, the authority to invest up to 2% of the assets of each investment. Such a delegation may be revoked by the Commission at any time.
2. The commission's annual investment plan must include a detailed description of the extent of the investment authority it delegates to the CIO.

**E. Section 10- Amendment to §9-16-380 regarding schedule of fiduciary audits.**

1. Sets a rotation schedule for the RSIC fiduciary audit for every four years with the next audit scheduled for FY 18-19.
2. Transfers the responsibility to select and employ a private audit firm to perform a fiduciary audit from the State Inspector General to the State Auditor.

**F. Section 11- New §9-16-100 prohibiting lobbyists and placement agents relating to the commission's investment of funds.**

1. Prohibits lobbyists from having contact with anyone associated with the RSIC to solicit the investment of funds with a particular entity.
2. Prohibits the RSIC from making investments using an external investment manager where a placement agent would receive compensation as a result of the commission's investment.
3. Prohibits the RSIC from investing in an asset or entity that a commissioner has any interest in, unless such investment is neither managed nor selected by the commissioner.

**IV. PART IV: ADMINISTRATION OF RETIREMENT SYSTEM FUNDS**

**A. Section 12- Amendments to §9-1-1310(A) regarding the trustees of the Retirement System**

1. Names PEBA and RSIC as co-trustees of the retirement system, and eliminates the SFAA as a trustee. (H. 5006 had PEBA and the SFAA as co-trustees. Otherwise, this section was the same in both S. 675 and H. 5006.) PEBA holds the fund in a group trust and RSIC invests those funds.

**B. Section 13- Amendments to §9-1-1320 regarding the custodian of the retirement system and selection of the custodial bank.**

1. Defines the custodian as PEBA and assigns the choice of the Custodial Bank to RSIC.

2. RSIC has exclusive authority to select custodial bank and PEBA is a third party beneficiary with full rights to information.
3. Sets forth minimum qualifications for a custodial bank selected by the Commission:
  - a. Must be domiciled in the US, and a member of the Federal Reserve;
  - b. Must have more than \$1 Trillion of assets under its custody;
  - c. Must have provided custodial services for at least 15 years; and
  - d. Must provide custodial services for other public fund clients.

**V. PART V: MISCELLANEOUS AND TIME EFFECTIVE**

**A. Section 14- Amendments to §1-3-240 (C)(1) regarding removal of commissioners / board members by the Governor**

1. This current section lists appointed commissioners and board members that may be removed only for cause by the Governor.
2. This new section adds RSIC commissioners and PEBA board members to the list, and complies with new language proposed in the bill relating to the removal for PEBA board members for cause only, and with current language already in statute for RSIC commissioners.

**B. Section 15-Repeal of Sections 9-4-45, 9-8-170, 9-9-160, 9-10-80 and 9-11-250**

1. Repealed statutes remove the approval authority of the SFAA over PEBA's policy determinations, and remove the Treasurer as the custodian of the JSRS, GARS, NGRS and PORS.

**C. Section 16- Time Effective**

1. The provisions would be effective for FY 18, beginning July 1, 2017.