**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3568**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. G.M. Smith and Ballentine

Document Path: l:\council\bills\bbm\9928htc11.docx

Companion/Similar bill(s): 531

Introduced in the House on February 2, 2011

Currently residing in the House Committee on **Ways and Means**

Summary: Retirement system

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/2/2011 House Introduced and read first time ([House Journal‑page 57](file:///h:\hj%20archive\2011\02-02-11.docx))

2/2/2011 House Referred to Committee on **Ways and Means** ([House Journal‑page 57](file:///h:\hj%20archive\2011\02-02-11.docx))

2/8/2011 House Member(s) request name added as sponsor: Ballentine

5/9/2011 Scrivener's error corrected

**VERSIONS OF THIS BILL**

[2/2/2011](file:///p:\pprever\2011-12\3568_20110202.docx)

[5/9/2011](file:///p:\pprever\2011-12\3568_20110509.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 9‑1‑5, 9‑8‑5, 9‑9‑5, AND 9‑20‑5 SO AS TO CLOSE THE SOUTH CAROLINA RETIREMENT SYSTEM, THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS, THE RETIREMENT SYSTEM FOR MEMBERS OF THE GENERAL ASSEMBLY OF THE STATE OF SOUTH CAROLINA, AND THE STATE OPTIONAL RETIREMENT PROGRAM TO EMPLOYEES HIRED OR OFFICERS TAKING OFFICE AFTER JUNE 30, 2012, AND TO PROVIDE THAT OFFICERS OR EMPLOYEES HIRED OR TAKING OFFICE AFTER JUNE 30, 2012 MUST BE ENROLLED IN THE SOUTH CAROLINA RETIREMENT INVESTMENT PLAN; BY ADDING CHAPTER 22 TO TITLE 9 SO AS TO ESTABLISH THE SOUTH CAROLINA RETIREMENT INVESTMENT PLAN AS A DEFINED CONTRIBUTION PLAN AND PROVIDE FOR ITS ADMINISTRATION AND OPERATIONS; AND TO REPEAL, EFFECTIVE JULY 1, 2017, CHAPTER 22, TITLE 9 RELATING TO THE STATE OPTIONAL RETIREMENT PROGRAM.

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

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

“Section 9‑1‑5. (A) Notwithstanding any other provision of law, and except as provided pursuant to Section 9‑20‑40, after June 30, 2012, the South Carolina Retirement System established pursuant to this chapter is closed to nonmembers and persons who otherwise would have become members of the South Carolina Retirement System instead must be enrolled in the South Carolina Retirement Investment Plan established pursuant to Chapter 22 of this title.

(B) Nothing in this section may be construed to alter or otherwise diminish the rights of persons who are active contributing members of the South Carolina Retirement System as of June 30, 2012, or who are retired members or beneficiaries of deceased retirees of that system as of the same date.”

SECTION 2. Chapter 8, Title 9 of the 1976 Code is amended by adding:

“Section 9‑8‑5. (A) Notwithstanding any other provision of law, after June 30, 2012, the Retirement System for Judges and Solicitors of the State of South Carolina, established pursuant to this chapter is closed to nonmembers and persons who would otherwise would have become members instead must be enrolled in the South Carolina Retirement Investment Plan established pursuant to Chapter 22 of this title.

(B) Nothing in this section may be construed to alter or otherwise diminish the rights of persons who are active contributing members of the Retirement System for Judges and Solicitors as of June 30, 2012, or who are retired members or beneficiaries of deceased retirees of that system as of the same date.”

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

“Section 9‑9‑5. (A) Notwithstanding any other provision of law, after June 30, 2012, the Retirement System for members of the General Assembly of the State of South Carolina established pursuant to this chapter is closed to nonmembers and persons who otherwise would have become members of that system instead must be enrolled in the South Carolina Retirement Investment Plan established pursuant to Chapter 22 of this title.

(B) 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 as of June 30, 2012, or who are retired members or beneficiaries of deceased retirees of that system as of the same date.”

SECTION 4. Chapter 20, Title 9 of the 1976 Code is amended by adding:

“Section 9‑20‑5. Notwithstanding any other provision of law, after June 30, 2012, the State Optional Retirement Program established pursuant to this chapter is closed to new enrollees and persons who otherwise would have been eligible to enroll in the State Optional Retirement Program instead must be enrolled in the South Carolina Retirement Investment Plan established pursuant to Chapter 22 of this title. Nothing in this section may be construed to alter or diminish the rights of persons who are active or retired enrollees in the State Optional Retirement Program as of June 30, 2012. Nothing in this section prohibits an enrollee in the State Optional Retirement Program as of June 30, 2012, from becoming a member of the South Carolina Retirement System in the manner and subject to the limitations provided pursuant to Section 9‑20‑40(B).”

SECTION 5. Title 9 of the 1976 Code is amended by adding:

“CHAPTER 22

South Carolina Retirement Investment Plan

Section 9‑22‑10. As used in this chapter:

(1) ‘Director’ means the director of the system.

(2) ‘Employer’ has the meaning provided pursuant to Section 9‑1‑10(14).

(3) ‘Employee’ means an individual first hired or first taking office after June 30, 2012, who but for the provisions of Sections 9‑1‑5, 9‑8‑5, and 9‑9‑5, would be a member of one of the systems established pursuant to those chapters.

(4) ‘Participant’ means an officer or employee who participates in SCRIP.

(5) ‘SCRIP’ or ‘plan’ means the South Carolina Retirement Investment Plan established pursuant to this chapter.

(6) ‘System’ means the South Carolina Retirement System established pursuant to Chapter 1 of this title.

Section 9‑22‑20. (A) The system shall establish SCRIP, a defined contribution plan, for officers and employees as defined in Section 9‑22‑10(3). The following retirement and death benefit payment options may be provided for a participant in the plan annuities, lump‑sum distributions, partial distributions, or periodic withdrawals, whether through individual annuity contracts or mutual funds or individual certificates issued for group annuity contracts, fixed, or variable in nature, or a combination of them. Eligibility is determined solely by the South Carolina Retirement System. In addition and consistent with federal law, the plan must allow a participant to borrow from the participant’s account and repay the loan by payroll deduction or otherwise.

(B) Persons enrolled in the State Optional Retirement Plan may transfer their accounts to SCRIP before July 1, 2017. However, by this transfer, the person waives the option of becoming a member of the system as allowed pursuant to Section 9‑20‑40(B).

Section 9‑22‑30. The system shall provide for the administration of the plan pursuant to this chapter. The director 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. There must be included in the array of options a fixed income option. 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 State Optional Retirement Program established pursuant to Chapter 20 of this title as of July 1, 2012, may participate in this program by extending the provisions of existing contracts, mutatis mutandis.

Section 9‑22‑40. (A) Each participant shall contribute monthly to the program six and one‑half percent of compensation determined as if the participant were a member of the system. Participant contributions must be made by employer pick up in accordance with Section 9‑1‑1160(B) and any applicable provisions of the Internal Revenue Code of 1986. Each employer shall contribute on behalf of each participant six percent of the employee’s compensation. Deductions must not be made from this six percent contribution. Each employer shall remit to the designated companies for application to participants’ contracts or accounts, or both, an amount equal to the participant’s contribution plus the employer’s contribution in accordance with the guidelines established by the Internal Revenue Service for payroll tax remittance. The State Budget and Control Board may impose and the system may retain an additional employer contribution for the purposes provided in subsection (B) of this section. This additional employer contribution must be remitted to the system in accordance with the guidelines established for remitting retirement contributions to this system.

(B) The additional employer contribution must be used to defray any reasonable expenses incurred in performing services regarding the plan. These services may include, but are not limited to:

(1) participant education regarding the merits and risks associated with selection of defined contribution plans versus defined benefit plans;

(2) on‑going investment education, where appropriate;

(3) recordkeeping; and

(4) monitoring contract compliance.

(C) To the extent the provisions of this chapter adversely impact the actuarial soundness of the system, and the systems established pursuant to Chapters 8 and 9 of this title, employer and employee contributions to the system must be adjusted by the State Budget and Control Board as necessary to maintain the actuarial soundness of those systems.

Section 9‑22‑50. A death benefit may be paid by the State for service rendered while participating in the plan under the same requirements set out for system members pursuant to Section 9‑1‑1770. However, a postretirement death benefit must not be paid by the State for service rendered while participating in the plan. Employers shall remit the same contribution for the death benefit that employers would have contributed had the participant been a member of the system.”

SECTION 6. Chapter 20, Title 9 of the 1976 Code is repealed effective July 1, 2017. On that date, all persons enrolled in the State Optional Retirement Program and their respective accounts are transferred to SCRIP established pursuant to Chapter 22, Title 9 of the 1976 Code.

SECTION 7. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑