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COMMITTEE REPORT

May 4, 2012

**H. 4967**

Introduced by Ways and Means Committee

S. Printed 5/4/12--S.

Read the first time March 27, 2012.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (H. 4967) to amend Section 9‑1‑10, as amended, Code of Laws of South Carolina, 1976, relating to definitions under the South Carolina Retirement System (SCRS), etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ 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 benefits 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

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) If contribution rates have been increased pursuant to subsection (B) or subsection (C) beyond the scheduled contributions provided in subsection (A), the board may decrease the employee and employer contribution rates to the minimum rates provided in subsection (A) upon finding that the increased rates are no longer necessary to maintain a thirty-year amortization period. Any such decrease must maintain the 2.9 percent differential between employer and employee contribution rates provided pursuant to subsection (B) of this section.”

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’ is 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 ~~those~~ 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 June 30, 2012, earnable compensation does not include any overtime pay not mandated by the employer.”

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 ~~in the following schedule:~~ pursuant to Section 9‑1‑1085.

~~Class One~~  ~~Class Two~~

~~Before July 1, 2005~~ ~~5~~ ~~6~~

~~July 1, 2005 through June 30, 2006~~ ~~5.25~~ ~~6.25~~

~~After June 30, 2006~~ ~~5.50~~ ~~6.50’~~

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 ~~prior to~~ 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.”

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.”

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 per cent known as the normal contribution rate and the accrued liability contribution rate of the total earnable compensation of all members during the preceding year. ~~Subject to the provisions of Section 9‑1‑1070, the amount of each annual accrued liability contribution shall be at least three per cent greater than the preceding annual accrued liability payment, and~~ 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.”

SECTION 7. 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 ~~a~~ an actuarially neutral payment to the system ~~to be~~ 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 ~~a~~ 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 ~~a~~ 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 ~~a~~ 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, or eight or more years of such service credit for a Class Three member, may establish up to five years of nonqualified service by making ~~a~~ 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 ~~a~~ 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 ~~shall~~ must be treated as earnable compensation and ~~shall~~ 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 ~~shall be~~ 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 member, not including a Class Three 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.”

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.”

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.”

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

“Upon the application of a member in service or of ~~his~~ the member’s employer, a member in service on or after July 1, 1970, who has had five or more years of earned service or eight or more years of such service for a Class Three member, or a contributing member who is disabled as a result of an injury arising out of and in the course of the performance of his 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~~ before the date of filing.”

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.”

SECTION 12. Section 9‑1‑1560(B) of the 1976 Code, as last amended by Act 166 of 1993, is further amended to read:

“(B) Upon retirement for disability on or after May 19, 1973, a Class Two or Class Three member shall receive a service retirement allowance if ~~he~~ the member has attained the age of sixty‑five years. Otherwise ~~he~~ the member shall receive a disability retirement allowance which ~~shall~~ must be computed as follows:

(1) ~~Such~~ The allowance ~~shall~~ must be equal to the service retirement allowance which would have been payable had ~~he~~ the member 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~~ a year.

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

SECTION 13. 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.”

SECTION 14. 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 ~~under age sixty with less than twenty‑eight years’ credit~~ who is not yet eligible for service retirement is assumed to be sixty years of age.”

SECTION 15. 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 fifteen 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 ~~he~~ 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 fifteen 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 July 1, 2012;

(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.”

SECTION 16. 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.”

SECTION 17. 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

SECTION 18. 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.”

SECTION 19. Section 9‑9‑120(2) of the 1976 Code is amended to read:

“(2) Each member of the System shall contribute ~~ten~~ eleven percent of earnable compensation in each calendar year, up to twenty‑two years of credited service, commencing with the calendar year ~~1976~~ 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

SECTION 20. 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

2013‑2014 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) If contribution rates have been increased pursuant to subsection (B) or subsection (C) beyond the scheduled contributions provided in subsection (A), the board may decrease the employee and employer contribution rates to the minimum rates provided in subsection (A) upon finding that the increased rates are no longer necessary to maintain a thirty-year amortization period. Any such decrease must maintain the 5.00 percent differential between employer and employee contribution rates provided pursuant to subsection (B) of this section.”

SECTION 21. 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 ~~prior to~~ 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.”

SECTION 22. 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 ~~a~~ 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, ~~board,~~ 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 ~~a~~ 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, ~~board,~~ 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 ~~a~~ 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, ~~board,~~ 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 ~~a~~ 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, ~~board,~~ 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, or eight or more years of such service credit for a Class Three member, may establish up to five years of nonqualified service by making ~~a~~ 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 ~~board,~~ 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 ~~a~~ 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, ~~board,~~ 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 member, not including a Class Three 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.”

SECTION 23. Section 9‑11‑60 of the 1976 Code, as last amended by Act 387 of 2001, 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.

~~(3)~~ ~~Reserved.~~”

SECTION 24. 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 lease twenty‑seven years of such service for a Class Three member, at the time of retirement, if the retired member’s most recent employer ~~prior to~~ before retirement is covered by the preretirement death benefit program.”

SECTION 25. Subsections (1) and (2) of Section 9‑11‑80, as last amended by Act 162 of 2010, are further amended to read:

“(1) On the application of a member in service or the member’s employer, a member who has five or more completed years of earned service or eight or more years of such service for a Class Three member 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 ~~prior to~~ 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) Upon disability retirement, 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~~ the member’s accumulated additional contributions at the date of ~~his~~ the member’s disability retirement.~~; provided,~~ However, ~~that,~~ at disability retirement, ~~his~~ the member’s disability retirement allowance ~~shall~~ must be determined on the basis of the number of years of credited service the member would have completed had ~~he~~ the member 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~~ must be either Class One service or Class Two or Class Three service depending upon the classification of the member at time of retirement.”

SECTION 26. 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 fifteen 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 ~~he~~ 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 fifteen 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 July 1, 2012;

(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.”

SECTION 27. 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 ~~under~~ pursuant to Section 9‑11‑150(A).

For purposes of the benefit calculation, a member ~~under age fifty with less than twenty‑five years’ credit~~ who is not yet eligible for service retirement is assumed to be ~~fifty~~ fifty‑five years of age.”

SECTION 28. 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 ~~six and one‑half percent of his compensation~~ 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.”

SECTION 29. 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 ~~ten percent of compensation of Class Two members in its employ. Such rates of contribution shall be subject to adjustment from time to time on the basis of the annual actuarial valuations of the System~~ a percentage of compensation for all other members in its employ as provided pursuant to Section 9‑11‑225.”

SECTION 30. 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

SECTION 31. 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 authority is comprised of the Insurance Reserve Fund, the employee insurance division and the retirement systems division. The governing body of the authority is a board of directors consisting of nine members. The functions of the authority must be performed, exercised, and discharged under the supervision and direction of the board. The board may organize its staff as it considers appropriate to carry out the various duties, responsibilities, and authorities assigned to it and to its various divisions. The board may delegate to one or more officers, agents, or employees the powers and duties it determines are necessary for the effective, efficient operation of the authority, including the hiring of an executive director of the authority. The executive director must be employed by the authority and compensation of the executive director may be fixed by the board in its judgment and as appropriated by the General Assembly.

(B) The board is composed of:

(1) three members appointed by the Governor;

(2) two representative members, appointed by the President Pro Tempore of the Senate, one who is either an active or retired member of the South Carolina Police Officers Retirement System and one who is a retired member of the South Carolina Retirement System;

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

(4) two representative members appointed by the Speaker of the House of Representatives, one of whom must be a state employee who is an active contributing member of the South Carolina Retirement System and an employee of a public school district in South Carolina who is an active member of the South Carolina Retirement System;

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

(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) In addition to the requirements of subsections (B)(2) and (4) of this section, 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) Representative members must be appointed from three nominations jointly made to the appointing official by membership organizations representative of the interests to be represented. The appointing official may request three additional nominations if the official elects not to appoint any of those nominated.

(E) Members of the board shall serve for terms of two years and until their successors are appointed and qualify. Vacancies must be filled 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 may be removed before the expiration of his term by the applicable appointing official only for the reasons specified in Section 1‑3‑240(C).

(F) 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.

(G)(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.

(H) 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.

(I) 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;

(2) Retirement Division; and

(3) Insurance Reserve Fund.

Section 9‑4‑15. The South Carolina Public Employee Benefit Authority shall operate the Insurance Reserve Fund and may establish it as a division or other appropriate subdivision of the authority.

Section 9‑4‑20. (A) The South Carolina Public Employee Benefit Authority shall operate an employee insurance program division to administer insurance programs pursuant to Article 5, Chapter 11, Title 1.

(B) The board of directors of the authority shall appoint a State Health Plan Advisory Committee (committee) to review and make recommendations to the board on proposed changes to the State Health Plan. Representation on the committee must be equal among health care professionals, the insurance industry, and consumers. The board, by resolution, shall establish the committee, provide for its membership, and provide for its operations. Members shall serve without compensation, but may receive the mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions to be paid from approved accounts of the authority.

(C) Notwithstanding any other provision of law or policy to the contrary, the board shall allow the governing body of a participating political subdivision to allow a judicial appointee to participate in the program.

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 9‑4‑50. (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

SECTION 32. Section 1‑11‑140 of the 1976 Code is amended to read:

“Section 1‑11‑140. (A) The ~~State Budget and Control Board~~ Public Employee Benefits Authority, through the ~~Office of Insurance Services~~ Insurance Reserve Fund, is authorized to provide insurance for the State, its departments, agencies, institutions, commissions, boards, and the personnel employed by the State in its departments, agencies, institutions, commissions, and boards so as to protect the State against tort liability and to protect these personnel against tort liability arising in the course of their employment. The insurance also may be provided for physicians or dentists employed by the State, its departments, agencies, institutions, commissions, or boards against any tort liability arising out of the rendering of any professional services as a physician or dentist for which no fee is charged or professional services rendered of any type whatsoever so long as any fees received are directly payable to the employer of a covered physician or dentist, or to any practice plan authorized by the employer whether or not the practice plan is incorporated and registered with the Secretary of State; provided, any insurance coverage provided by the ~~Budget and Control Board~~ authority may be on the basis of claims made or upon occurrences. The insurance also may be provided for students of high schools, South Carolina Technical Schools, or state‑supported colleges and universities while these students are engaged in work study, distributive education, or apprentice programs on the premises of private companies. Premiums for the insurance must be paid from appropriations to or funds collected by the various entities, except that in the case of the above‑referenced students in which case the premiums must be paid from fees paid by students participating in these training programs. The ~~board~~ authority has the exclusive control over the investigation, settlement, and defense of claims against the various entities and personnel for whom it provided insurance coverage and may promulgate regulations in connection therewith.

(B)(1) Beginning on January 1, 2013, and biennially thereafter, the Insurance Reserve Fund must request applications, in a manner and form prescribed by the fund, from private attorneys and law firms to determine from the applicants those that will be authorized to defend litigation covered by fund policies. The fund shall authorize attorneys and law firms to defend litigation covered by fund policies based upon such factors as it determines relevant, including those necessary to maintain the appropriate level of qualification, experience, and expertise given geographical needs, case load, efficiencies, and other business requirements.

(2) Before submitting a request for applicants, the fund must submit the list of factors for authorizing attorneys and law firms to defend litigation covered by fund policies to the Chairman of the Senate Judiciary Committee and the Chairman of the House Judiciary Committee and receive comments and recommendations offered by the committees.

~~(B)~~(C) Any political subdivision of the State including, without limitations, municipalities, counties, and school districts, may procure the insurance for itself and for its employees in the same manner provided for the procurement of this insurance for the State, its entities, and its employees, or in a manner provided by Section 15‑78‑140.

~~(C)~~(D) The procurement of tort liability insurance in the manner provided is the exclusive means for the procurement of this insurance.

~~(D)~~(E) The ~~State Budget and Control Board~~ authority, through the ~~Office of Insurance Services~~ Insurance Reserve Fund, also is authorized to offer insurance to governmental hospitals and any subsidiary of or other entity affiliated with the hospital currently existing or as may be established; and chartered, nonprofit, eleemosynary hospitals and any subsidiary of or other entity affiliated with the hospital currently existing or as may be established in this State so as to protect these hospitals against tort liability. Notwithstanding any other provision of this section, the procurement of tort liability insurance by a hospital and any subsidiary of or other entity affiliated with the hospital currently existing or as may be established supported wholly or partially by public funds contributed by the State or any of its political subdivisions in the manner herein provided is not the exclusive means by which the hospital may procure tort liability insurance.

~~(E)~~(F) The ~~State Budget and Control Board~~ authority, through the ~~Office of Insurance Services~~ Insurance Reserve Fund, is authorized to provide insurance for duly appointed members of the boards and employees of health system agencies, and for members of the State Health Coordinating Council which are created pursuant to Public Law 93‑641.

~~(F)~~(G) The ~~board~~ authority, through the ~~Office of Insurance Services~~ Insurance Reserve Fund, is further authorized to provide insurance as prescribed in Sections 10‑7‑10 through 10‑7‑40, 59‑67‑710, and 59‑67‑790.

~~(G)~~(H) Documentary or other material prepared by or for the ~~Office of Insurance Services~~ Insurance Reserve Fund in providing any insurance coverage authorized by this section or any other provision of law which is contained in any claim file is subject to disclosure to the extent required by the Freedom of Information Act only after the claim is settled or finally concluded by a court of competent jurisdiction.

~~(H)~~(I) The ~~board~~ authority, through the ~~Office of Insurance Services~~ Insurance Reserve Fund, is further authorized to provide insurance for state constables, including volunteer state constables, to protect these personnel against tort liability arising in the course of their employment, whether or not for compensation, while serving in a law enforcement capacity.”

SECTION 33. 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 ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority.

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

SECTION 34. 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 ~~State Budget and Control Board~~ board shall:”

SECTION 35. 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 ~~State Budget and Control Board~~ 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.”

SECTION 36. Section 1‑11‑725 of the 1976 Code, as added by Act 353 of 2008, is amended to read:

“Section 1‑11‑725. The ~~State Budget and Control Board’s~~ 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.”

SECTION 37. Section 1‑11‑730(A)(2) of the 1976 Code, as last amended by Act 195 of 2008, is 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 ~~State Budget and Control Board~~ board.”

SECTION 38. 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 ~~State Budget and Control Board~~ 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 ~~Budget and Control Board~~ 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.”

SECTION 39. 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 ~~State Budget and Control Board~~ 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:”

SECTION 40. 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. ~~A Deferred Compensation Commission is established consisting of eight members including the director of the South Carolina Retirement System, chief investment officer of the State Retirement System Investment Commission, and the executive director of the State Employees’ Association, each of whom serve ex officio, and five other public employees to be appointed by the State Budget and Control Board, at least two of whom must be state employees and one must be a retired public employee. The appointed members shall serve for terms of three years and until their successors are appointed and qualify. The State Budget and Control Board shall designate the chairman.~~

The ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ 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 ~~State Deferred Compensation Commission~~ 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 ~~commission~~ Board of Directors of the South Carolina Public Employee Benefit Authority shall ensure that plan documents governing deferred compensation plans administered by the ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ board or such plans offered by other providers in an amount and under the terms and conditions prescribed for such contributions by the ~~State Budget and Control Board~~ 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.

SECTION 41. 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 ~~State Budget and Control Board~~ 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.”

SECTION 42. 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 ~~State Budget and Control Board~~ 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.”

SECTION 43. 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 ~~State Budget and Control Board~~ board.”

SECTION 44. 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 ~~State Budget and Control Board~~ 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.”

SECTION 45. Section 9‑1‑1515(D)(2) of the 1976 Code is 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 ~~State Budget and Control Board~~ board.”

SECTION 46. 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 ~~State Budget and Control Board shall~~ 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.”

SECTION 47. Chapter 2, Title 9 of the 1976 Code is amended to read:

“CHAPTER 2

Retirement and Preretirement Advisory ~~Board~~ Panel

Section 9‑2‑10. There is ~~hereby~~ created the South Carolina Retirement and Preretirement Advisory ~~Board~~ 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 ~~board~~ panel shall consist of eight members appointed by the ~~State Budget and Control Board~~ 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 ~~Budget and Control Board~~ board of directors shall invite the appropriate associations, groups, and individuals to recommend persons to serve on the ~~board~~ 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 ~~board~~ 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 ~~State Budget and Control Board~~ Executive Director of the South Carolina Public Employee Benefit Authority. The chairman may call additional meetings of the ~~board~~ panel at such other times as ~~deemed~~ considered necessary and shall give timely notice of such meetings.

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

Section 9‑2‑50. The ~~board~~ 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 ~~board~~ panel is also encouraged to use such resources as faculty and students at public universities, colleges, and technical education schools in South Carolina.”

SECTION 48. Section 9‑8‑10(3) of the 1976 Code is amended to read:

“(3) ‘Board’ means the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority.”

SECTION 49. 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 ~~State Budget and Control Board~~ board.”

SECTION 50. 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 ~~must~~ also must be a member of the ~~General Assembly Retirement System~~ retirement system unless the person files a statement with the ~~State Budget and Control Board~~ board on a form prescribed by the board electing not to participate in the ~~General Assembly Retirement System~~ the applicable system while a member of the General Assembly. A person making this election shall not make contributions to the ~~General Assembly Retirement System~~ applicable retirement system nor shall the State make contributions on the member’s behalf and the person is not entitled to benefits from the ~~General Assembly Retirement System~~ applicable retirement system after ceasing to be a member of the General Assembly.”

SECTION 51. Section 9‑9‑10(3) of the 1976 Code is amended to read:

“(3) ‘Board’ ~~shall mean~~ means the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority.”

SECTION 52. 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 ~~State Budget and Control Board~~ board.”

SECTION 53. Section 9‑10‑10(1) of the 1976 Code, as added by Act 155 of 2005, is amended to read:

“(1) ‘Board’ ~~or ‘board’~~ means the ~~State Budget and Control Board~~ 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.”

SECTION 54. 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 ~~State Budget and Control Board~~ board.”

SECTION 55. Section 9‑11‑10(9) of the 1976 Code is amended to read:

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

SECTION 56. 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 ~~State Budget and Control Board~~ board.”

SECTION 57. Section 9‑12‑10(1) of the 1976 Code, as added by Act 311 of 2008, is amended to read:

“(1) ‘Board’ means the ~~State Budget and Control Board~~ 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.”

SECTION 58. 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 ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority acting as trustee of the retirement system.

(9) ‘Trustee’ means the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority.”

SECTION 59. Section 9‑16‑55(F) of the 1976 Code, as added by Act 248 of 2008, is amended to read:

“(F) Present~~, future,~~ 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.”

SECTION 60. Section 9‑18‑10(3) of the 1976 Code, as added by Act 38 of 1995, is amended to read:

“(3) ‘Board’ means the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority.”

SECTION 61. 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. (A) The South Carolina Retirement System shall provide for the administration of the State Optional Retirement Program under this chapter. The Director ~~acting on behalf~~ 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~~ two entities 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.

(B) If the board deselects a provider, vendor, plan administrator, or other entity, it shall ensure that the deselection and related transition are accomplished with minimal disruption to participants.

(C) 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 ~~this~~ participation is governed by their existing contracts.”

SECTION 62. Section 9‑21‑20(2) of the 1976 Code, as added by Act 12 of 2003, is amended to read:

“(2) ‘Board’ means the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority.”

SECTION 63. Section 15‑78‑140 of the 1976 Code is amended to read:

“Section 15‑78‑140. (a) (Reserved)

(b) The political subdivisions of this State, in regard to tort and automobile liability, property and casualty insurance shall procure insurance to cover these risks for which immunity has been waived by (1) the purchase of liability insurance pursuant to Section 1‑11‑140; or (2) the purchase of liability insurance from a private carrier; or (3) self‑insurance; or (4) establishing pooled self‑insurance liability funds, by intergovernmental agreement, which may not be construed as transacting the business of insurance or otherwise subject to state laws regulating insurance. A pooled self‑insurance liability pool is authorized to purchase specific and aggregate excess insurance. A pooled self‑insurance liability fund must provide liability coverage for all employees of a political subdivision applying for participation in the fund. If the insurance is obtained other than pursuant to Section 1‑11‑140, it must be obtained subject to the following conditions:

(1) If the political subdivision does not procure tort liability insurance pursuant to Section 1‑11‑140, it must also procure its automobile liability and property and casualty insurance from other sources and shall not procure these coverages through the ~~Budget and Control Board~~ Insurance Reserve Fund;

(2) If a political subdivision procures its tort liability insurance, automobile liability insurance, or property and casualty insurance through the ~~Budget and Control Board~~ Insurance Reserve Fund, all liability exposures of the political subdivision as well as its property and casualty insurance must be insured with the ~~Budget and Control Board~~ Insurance Reserve Fund;

(3) If the political subdivision, at any time, procures its tort liability, automobile liability, property, or casualty insurance other than through the ~~Budget and Control Board~~ Insurance Reserve Fund and then subsequently desires to obtain this coverage with the ~~Budget and Control Board~~ Insurance Reserve Fund, notice of its intention to so obtain this subsequent coverage must be provided the ~~Budget and Control Board~~ Insurance Reserve Fund at least ninety days ~~prior to~~ before the beginning of the coverage with the ~~State Budget and Control Board~~ Insurance Reserve Fund. The other lines of insurance that the political subdivision is required to procure from the ~~board~~ fund are not required to commence until the coverage for that line of insurance expires. Any political subdivision may cancel all lines of insurance with the ~~State Budget and Control Board~~ Insurance Reserve Fund if it gives ninety days’ notice to the ~~board~~ fund. The ~~Budget and Control Board~~ Insurance Reserve Fund may negotiate the insurance coverage for any political subdivision separate from the insurance coverage for other insureds.

(4) If any political subdivision cancels its insurance with the ~~Budget and Control Board~~ Insurance Reserve Fund, it is entitled to an appropriate refund of the premium, less reasonable administrative cost.

(c) For any claim filed under this chapter, the remedy provided in Section 15‑78‑120 is exclusive. The immunity of the State and its political subdivisions, with regard to the seizure, execution, or encumbrance of their properties is reaffirmed.”

SECTION 64. 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. ~~Individuals eligible for the matching contribution must be classified as required in Section 9‑20‑20, the Optional Retirement Program for Teachers and School Administrators.~~”

SECTION 65. This subpart takes effect July 1, 2012.

Subpart 3

Transfer and Devolution

Retirement System Investment Commission

SECTION 66. 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.

SECTION 67. 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 six 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 who shall serve without voting privileges. 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) ~~at least ten years professional securities broker experience;~~ reserved

(4) at least ~~ten~~ 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 ~~ten~~ 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; ~~or~~

(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.

SECTION 68. (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 Insurance Reserve Fund, 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 Insurance Reserve Fund, 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.

Subpart 4

Effective Date of this Part

SECTION 69. Except where otherwise provided, this Part takes effect July 1, 2012.

Part V

Provisions Applying to More Than One Retirement System

SECTION 70. 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.”

SECTION 71. 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 ~~shall~~ 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 ~~shall~~ must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in ~~such~~ 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 ~~shall~~ 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 ~~shall~~ must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in ~~such~~ 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 ~~shall~~ 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 ~~shall~~ must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in ~~such~~ 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 ~~shall~~ 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 ~~shall~~ must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in ~~such~~ 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

SECTION 72. 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.”

SECTION 73. 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.

SECTION 74. 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.

SECTION 75. 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.

SECTION 76. 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.

SECTION 77. Except where otherwise stated, this act takes effect July 1, 2012. /

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**A** **BILL**

TO AMEND SECTION 9‑1‑10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS UNDER THE SOUTH CAROLINA RETIREMENT SYSTEM (SCRS), SO AS TO PROVIDE FOR “CLASS THREE” MEMBERS OF SCRS WITH “CLASS THREE” MEMBERS MEANING AN EMPLOYEE MEMBER OF SCRS WITH AN EFFECTIVE DATE OF MEMBERSHIP AFTER JUNE 30, 2012; TO AMEND SECTIONS 9‑1‑10 FURTHER AND 9‑1‑1550, RELATING TO RETIREMENT BENEFITS UNDER THE SCRS, SO AS TO REVISE THE MANNER IN WHICH RETIREMENT BENEFITS FOR SCRS MEMBERS ARE COMPUTED AFTER JUNE 30, 2012, AND TO PROVIDE FOR AN ALTERNATE CALCULATION OF BENEFITS FOR SCRS MEMBERS AS OF JUNE 30, 2012, WHICH APPLIES IF THE MEMBER’S BENEFIT CALCULATED ON RETIREMENT AFTER JUNE 30, 2012, WOULD RESULT IN A LESSER AMOUNT; BY ADDING SECTION 9‑1‑1815 SO AS TO PROVIDE FOR THE MANNER IN WHICH RETIRED SCRS MEMBERS AND THEIR SURVIVING ANNUITANTS MAY RECEIVE INCREASED ALLOWANCES AND THE METHOD OF CALCULATING THAT INCREASE; AND TO REPEAL SECTION 9‑1‑1810 RELATING TO INCREASES IN SCRS RETIREMENT ALLOWANCES BASED ON THE CONSUMER PRICE INDEX; TO AMEND SECTION 9‑1‑1020, AS AMENDED, RELATING TO DEDUCTIONS FROM THE COMPENSATION OF MEMBERS OF SCRS TO FUND BENEFITS, THE TAX TREATMENT THEREOF, AND OTHER RELATED PROVISIONS, SO AS TO INCREASE ON JULY 1, 2012, THE REQUIRED DEDUCTIONS OF CLASS ONE SCRS MEMBERS TO SIX PERCENT OF EARNABLE COMPENSATION FROM FIVE AND ONE‑HALF PERCENT AND THE REQUIRED DEDUCTIONS OF SCRS CLASS TWO AND CLASS THREE MEMBERS TO SEVEN PERCENT OF EARNABLE COMPENSATION FROM SIX AND ONE‑HALF PERCENT AND TO INCREASE SUCH CONTRIBUTIONS BY AN ADDITIONAL ONE HALF OF ONE PERCENT EFFECTIVE JULY 1, 2013, AND MAKE CONFORMING CHANGES; TO AMEND SECTION 9‑1‑1080, RELATING TO EMPLOYER CONTRIBUTIONS FOR SCRS, SO AS TO PROVIDE FOR A MINIMUM EMPLOYER CONTRIBUTION RATE OF TEN AND SIX‑TENTHS PERCENT OF EARNABLE COMPENSATION WHILE AN ACCRUED LIABILITY CONTRIBUTION IS REQUIRED; TO AMEND SECTION 9‑1‑1140, AS AMENDED, RELATING TO THE PURCHASE OF ADDITIONAL SERVICE CREDIT UNDER SCRS, SO AS TO PROVIDE THAT THE REQUIRED COST IS THE GREATER OF AN ACTUARIALLY NEUTRAL PAYMENT BASED ON THE SCRS MEMBER’S CURRENT AGE AND CREDITABLE SERVICE OR A SET PERCENTAGE OF SALARY AND TO ELIMINATE THE ADDITION OF UNUSED SICK LEAVE IN THE CALCULATION OF CREDITABLE SERVICE AFTER JUNE 30, 2012; TO AMEND SECTION 9‑1‑1510, AS AMENDED, RELATING TO THE REQUIREMENTS FOR A SCRS RETIREMENT ALLOWANCE, SO AS TO PROVIDE THAT A SCRS CLASS THREE MEMBER MUST HAVE AT LEAST THIRTY YEARS OF CREDITABLE SERVICE TO BE ELIGIBLE TO RETIRE AT ANY AGE WITHOUT A BENEFIT REDUCTION; TO AMEND SECTION 9‑1‑1515, AS AMENDED, RELATING TO THE REQUIREMENTS FOR EARLY RETIREMENT IN SCRS, SO AS TO CONFORM THE REQUIREMENTS OF THAT SECTION AS IT APPLIES FOR SCRS CLASS THREE MEMBERS; TO AMEND SECTION 9‑1‑1660, AS AMENDED, RELATING TO THE REQUIREMENTS FOR A NOMINEE OF A DECEASED ACTIVE SCRS MEMBER TO RECEIVE A RETIREMENT ALLOWANCE, SO AS TO CONFORM THE REQUIREMENTS OF THAT SECTION AS IT APPLIES FOR SCRS CLASS THREE MEMBERS; TO AMEND SECTION 9‑1‑2210, AS AMENDED, RELATING TO THE TEACHER AND EMPLOYEE RETENTION INCENTIVE (TERI) PROGRAM, SO AS TO CLOSE THE PROGRAM FOR SCRS CLASS THREE MEMBERS AND TO CONFORM THE CALCULATION OF RETIREMENT BENEFITS FOR TERI PARTICIPANTS; TO AMEND SECTION 9‑9‑60, AS AMENDED, RELATING TO RETIREMENT AND RETIREMENT ALLOWANCES FOR MEMBERS OF THE RETIREMENT SYSTEM FOR MEMBERS OF THE GENERAL ASSEMBLY OF THE STATE OF SOUTH CAROLINA (GARS), SO AS PROSPECTIVELY TO ELIMINATE PROVISIONS ALLOWING MEMBERS OF THE GENERAL ASSEMBLY WHO MEET CERTAIN AGE OR CREDITED SERVICE REQUIREMENTS OR WITH AGE AND CREDITED SERVICE REQUIREMENTS TO RECEIVE A GARS RETIREMENT BENEFIT WHILE CONTINUING TO SERVE IN THE GENERAL ASSEMBLY; TO AMEND SECTIONS 9‑11‑10 AND 9‑11‑60, BOTH AS AMENDED, RELATING TO DEFINITIONS AND ELIGIBILITY FOR RETIREMENT UNDER THE SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM (SCPORS), SO AS TO REVISE THE MANNER IN WHICH RETIREMENT BENEFITS FOR SCPORS MEMBERS RETIRING AFTER JUNE 30, 2012, ARE COMPUTED AND TO PROVIDE FOR AN ALTERNATE CALCULATION OF BENEFITS FOR SCPORS MEMBERS AS OF JUNE 30, 2012, WHICH APPLIES IF THE SCPORS MEMBER’S BENEFIT CALCULATED ON RETIREMENT AFTER JUNE 30, 2012, WOULD RESULT IN A LESSER AMOUNT; BY ADDING SECTION 9‑11‑312 SO AS TO PROVIDE FOR THE MANNER IN WHICH SCPORS RETIRED MEMBERS AND THEIR SURVIVING ANNUITANTS MAY RECEIVE INCREASED ALLOWANCES AND THE METHOD OF CALCULATING THAT INCREASE; AND TO REPEAL SECTION 9‑11‑310 RELATING TO COST OF LIVING ADJUSTMENTS UNDER SCPORS BASED ON THE CONSUMER PRICE INDEX; TO AMEND SECTION 9‑11‑50, AS AMENDED, RELATING TO THE PURCHASE OF ADDITIONAL SERVICE CREDIT UNDER SCPORS, SO AS TO PROVIDE THAT THE REQUIRED COST MUST BE THE GREATER OF AN ACTUARIALLY NEUTRAL PAYMENT BASED ON THE MEMBERS CURRENT AGE AND CREDITABLE SERVICE OR A SET PERCENTAGE OF SALARY AND TO ELIMINATE THE ADDITION OF UNUSED SICK LEAVE IN THE CALCULATION OF CREDITABLE SERVICE AFTER JUNE 30, 2012; TO AMEND SECTION 9‑11‑210, AS AMENDED, RELATING TO DEDUCTIONS FROM THE COMPENSATION OF MEMBERS OF SCPORS TO FUND BENEFITS, THE TAX TREATMENT THEREOF, AND OTHER RELATED PROVISIONS, SO AS TO INCREASE ON JULY 1, 2012, THE REQUIRED DEDUCTIONS OF SCPORS CLASS TWO MEMBERS TO SEVEN PERCENT OF EARNABLE COMPENSATION FROM SIX AND ONE‑HALF PERCENT AND TO INCREASE SUCH CONTRIBUTIONS BY AN ADDITIONAL ONE HALF OF ONE PERCENT EFFECTIVE JULY 1, 2013; TO AMEND SECTION 9‑11‑220, AS AMENDED, RELATING TO EMPLOYER CONTRIBUTIONS FOR SCPORS, SO AS TO PROVIDE FOR A MINIMUM EMPLOYER CONTRIBUTION RATE OF TWELVE AND THREE TENTHS PERCENT OF EARNABLE COMPENSATION WHILE AN ACCRUED LIABILITY CONTRIBUTION IS REQUIRED; BY ADDING SECTION 9‑16‑335 SO AS TO PROVIDE THAT THE ASSUMED ANNUAL RATE OF RETURN ON THE INVESTMENTS OF THE RETIREMENT SYSTEM MUST BE ESTABLISHED BY THE GENERAL ASSEMBLY AND EFFECTIVE JULY 1, 2012, THE ASSUMED ANNUAL RATE OF RETURN ON RETIREMENT SYSTEM INVESTMENTS IS SEVEN AND ONE‑HALF PERCENT; AND TO AMEND SECTIONS 9‑1‑1135, 9‑8‑185, 9‑9‑175, AND 9‑11‑265, RELATING TO INTEREST ON MEMBER’S CONTRIBUTIONS IN SCRS, GARS, THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS, AND SCPORS, SO AS TO PROVIDE THAT INTEREST IS NOT PAID ON INACTIVE ACCOUNTS, AND TO DEFINE “INACTIVE ACCOUNT”.

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

Part I

South Carolina Retirement System

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

“Section 9‑1‑1815. (A)(1) 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, are subject to an annual adjustment calculated as provided in this subsection. Annually in November the board shall subtract the assumed annual rate of return on the investments of the assets of the South Carolina Retirement System from the five‑year average investment return of the South Carolina Retirement System. If the difference of that subtraction is a positive percentage, then retirement allowances paid must be increased by the same percentage, but not more than two and one‑half percent. If the annual calculation difference results in a positive percentage, but the actual rate of return on the system’s investments for the preceding plan year was less than zero, an increase may not be granted. In no case may the calculation result in an adjustment that decreases benefits. If the annual calculation results in increased retirement allowances, then the board, by December thirty‑first following the calculation, by resolution, shall direct the increase.

(2) For purposes of this subsection, the ‘five‑year average investment return’ means the average of the investment returns of the most recent five plan years ending on June thirtieth before the November calculation date as determined by the board.

(B) An increase in the retirement allowance pursuant to subsection (A) of this section begins the July first immediately following the date of the resolution directing the increase, and all increases in retirement allowances must be granted to those retirees and their surviving annuitants, in receipt of a retirement allowance on July first immediately preceding the effective date of the increase. Any increase in allowance granted pursuant to subsection (A) must be included in the determination of any subsequent increase.”

SECTION 2. A. 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):

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

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 those members retiring on or after July 1, 1986, but before July 1, 2012, 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 members retiring after June 30, 2012, 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 June 30, 2012, earnable compensation does not include any overtime pay not mandated by the employer.”

SECTION 3. 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 in the following schedule:

Class One ~~Class~~ Classes

Two and Three

Before July 1, 2005 5 6

July 1, 2005 through

June 30, 2006 5.25 6.25

After June 30, 2006

through June 30, 2012 5.50 6.50

After June 30, 2012

through June 30, 2013 6 7

After June 30, 2013 6.50 7.50

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 prior to 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. Before July 1, 2015, 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~~ must be included in a member’s average final compensation calculation, for the members eligible to have that pay included in the member’s average final compensation calculation.”

SECTION 4. 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 ~~per cent~~ 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. After June 30, 2012, this employer contribution rate shall not be less than ten and six‑tenths percent of the total earnable compensation of all members during the preceding year, until the accrued liability contribution is discontinued pursuant to Section 9‑1‑1090. ~~Subject to the provisions of Section 9‑1‑1070, the amount of each annual accrued liability contribution shall be at least three per cent greater than the preceding annual accrued liability payment, and~~ 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.”

SECTION 5. 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 ~~a~~ an actuarially neutral payment to the system ~~to be~~ 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 ~~a~~ 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 ~~a~~ 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 ~~a~~ 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 ~~a~~ 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 ~~a~~ 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 ~~shall~~ must be treated as earnable compensation and ~~shall~~ 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 ~~shall be~~ 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, but before July 1, 2012, a 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.”

SECTION 6. 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) five or more years of earned service;

(2) attained the age of sixty years or has thirty or more years of creditable service; 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.”

SECTION 7. Section 9‑1‑1515 of the 1976 Code, as last amended by Act 1 of 2001, is amended to read:

“Section 9‑1‑1515. (A)(1) 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)~~(a) has five or more years of earned service;

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

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

~~(4)~~(d) has separated from service.

A member electing early retirement pursuant to this subsection shall apply in the manner provided in Section 9‑1‑1510(A).

~~(B)~~(2) The benefits for a member electing early retirement under this ~~section~~ subsection must be calculated in the manner provided in Section 9‑1‑1550, except that in lieu of any other reduction factor, the member’s early retirement allowance is reduced by four percent a year, prorated for periods less than one year, for each year of creditable service less than twenty‑eight.

~~(C)~~(3) A member who elects early retirement under this ~~section~~ subsection is ineligible to receive any cost‑of‑living increase provided by law to retirees until the second July first after the date the member attains age sixty; or the second July first after the date the member would have twenty‑eight years’ creditable service had ~~he~~ the member not retired, whichever is earlier.

~~(D)(1)~~(4)(a) Except as provided in ~~item (2)~~ subitem (b) of this ~~subsection~~ item, a member who elects early retirement under this ~~section~~ subsection is not covered by the State Insurance Benefits Plan until the earlier of:

~~(a)~~(i) the date the member attains age sixty, or

~~(b)~~(ii) the date the member would have twenty‑eight years’ creditable service had ~~he~~ the member not retired.

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

(B)(1) In addition to other types of retirement provided by this chapter, a Class Three member may elect early retirement if the member:

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

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

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

(d) has separated from service.

A member electing early retirement pursuant to this subsection shall apply in the manner provided in Section 9‑1‑1510(B).

(2) The benefits for a member electing early retirement under this subsection must be calculated in the manner provided in Section 9‑1‑1550, except that in lieu of any other reduction factor, the member’s early retirement allowance is reduced by four percent a year, prorated for periods less than one year, for each year of creditable service less than thirty.

(3) A member who elects early retirement under this subsection is ineligible to receive any cost‑of‑living increase provided by law to retirees until the second July first after the date the member attains age sixty; or the second July first after the date the member would have thirty years’ creditable service had the member not retired, whichever is earlier.

(4)(a) Except as provided in subitem (b) of this item, a member who elects early retirement under this subsection is not covered by the State Insurance Benefits Plan until the earlier of:

(i) the date the member attains age sixty, or

(ii) the date the member would have thirty years’ creditable service had the member not retired.

(b) A member taking early retirement under this subsection may maintain coverage under the State Insurance Benefits Plan until the date the member’s coverage is reinstated pursuant to subitem (a) of this item by paying the total premium cost, including the employer’s contribution, in the manner provided by the Division of Insurance Services of the State Budget and Control Board.”

SECTION 8. Section 9‑1‑1550 of the 1976 Code, as last amended by Act 1 of 2001, is further amended by adding two new subsections 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 after he has completed thirty or more years of creditable service, the allowance must be equal to one and eighty‑two hundredths percent of his average final compensation, multiplied by the number of years of his creditable service.

(2) If the member’s service retirement date occurs before his sixty‑fifth birthday and before he completes thirty years of creditable service, his 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.

(D) To ensure that a member’s benefit earned and accrued before July 1, 2012, is protected, the benefit provided to a Class One or a Class Two member must be not less than the benefit that would have been provided to the member had the member retired on June 30, 2012, based on the member’s service credit and average final compensation then existing. For purposes of calculating the member’s benefit as if the member retired on June 30, 2012:

(1) it must be presumed that forty‑five days’ termination pay for unused annual leave was paid to the member at retirement based on the member’s career highest salary;

(2) the member shall receive service credit for ninety days of unused sick leave; and

(3) the member’s average final compensation must be computed using the twelve consecutive quarters of his creditable service ending before July 1, 2012, on which regular contributions as a member were made to the system producing the highest such average.”

SECTION 9. 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;

(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 Class One or Class Two member under age sixty with less than twenty‑eight years’ credit, or thirty years such credit in the case of a Class Three member, is assumed to be sixty years of age.”

SECTION 10. Section 9‑1‑2210 of the 1976 Code, as last amended by Act 112 of 2007, is further amended to read:

“Section 9‑1‑2210. (A) An active Class One or Class Two contributing member who is eligible for service retirement under this chapter and complies with the requirements of this article may elect to participate in the Teacher and Employee Retention Incentive Program (program). A member electing to participate in the program retires for purposes of the system. The program participant shall agree to continue employment with an employer participating in the system for a program period, not to exceed five years. The member shall notify the system before the beginning of the program period. Participation in the program does not guarantee employment for the specified program period. Class Three members are not eligible to participate in the program.

(B) ~~After June 30, 2005, and~~ (1) For a member who elects to participate in the program before July 1, 2012, or a member who elects to participate in the program after June 30, 2012, and who is entitled to a benefit calculated pursuant to Section 9‑1‑1550(D), notwithstanding the provisions of Section 9‑1‑10(4), a payment for unused annual leave is not included in calculating a member’s deferred program benefit during the program period. The member’s average final compensation for the purpose of calculating the deferred program retirement benefit must be solely the average of the member’s highest twelve consecutive quarters of earnable compensation at the time the member enters the program.

(2) For a member who elects to participate in the program after June 30, 2012, and whose benefit is not calculated pursuant to Section 9‑1‑1550(D), the member’s deferred program retirement benefit must be calculated as a normal service retirement benefit.

(3) During the specified program period, receipt of the member’s normal retirement benefit is deferred. The member’s deferred monthly benefit must be placed in the system’s trust fund on behalf of the member. No interest is paid on the member’s deferred monthly benefit placed in the system’s trust fund during the specified program period.

(C) During the specified program period, the employer shall pay to the system the employer contribution for active members prescribed by law with respect to any program participant it employs, regardless of whether the program participant is a full‑time or part‑time employee, or a temporary or permanent employee. The program participant shall pay to the system the employee contribution as if the program participant were an active contributing member, but the program participant does not accrue additional service credit in the system for these employer and employee contributions. If an employer who is obligated to the system pursuant to this subsection fails to pay the amount due, as determined by the system, the amount must be deducted from any funds payable to the employer by the State.

(D) A program participant is retired from the retirement system as of the beginning of the program period. A program participant is not eligible to receive disability retirement benefits. Accrued annual leave and sick leave used in any manner in the calculation of the program participant’s retirement benefit is deducted from the amount of such leave accrued by the participant.

(E) A program participant is retired for retirement benefit purposes only. For employment purposes, a program participant is considered to be an active employee, retaining all other rights and benefits of an active employee except for grievance rights pursuant to Section 8‑17‑370, and is not subject to the earnings limitation of Section 9‑1‑1790 during the program period.

(F) Upon termination of employment either during or at the end of the program period, the member must receive the balance in the member’s program account by electing one of the following distribution alternatives:

(1) a lump‑sum distribution, paying appropriate taxes; or

(2) to the extent permitted under law, a tax sheltered rollover into an eligible plan.

For members who began participation in the program before July 1, 2005, the member also must receive the previously determined normal retirement benefits based upon the member’s average final compensation and service credit at the time the program period began, plus any applicable cost of living increases declared during the program period. The program participant is thereafter subject to the earnings limitation of Section 9‑1‑1790.

Upon termination of employment of members who began participation in the program after June 30, 2005, but before July 1, 2012, or who began participation after June 30, 2012, and are entitled to a benefit calculated pursuant to Section 9‑1‑1550(D), the Retirement Systems shall recalculate the average final compensation of the member to determine the benefit the member receives after participation in the program. The average final compensation calculated at the commencement of the program must be increased by an amount up to and including forty‑five days’ termination pay for unused annual leave received by the member at termination of employment, divided by three. The member’s benefit after participation in the program must be calculated in accordance with Section 9‑1‑1550, utilizing the recalculated average final compensation determined in this subsection, and the member’s service credit, including sick leave, as of the date the member began participation in the program, plus any cost‑of‑living increases declared during the program period with respect to the amount of the member’s deferred program benefit. Upon termination of employment of a member who began participation in the program after June 30, 2012, and who is not entitled to a benefit calculated pursuant to Section 9‑1‑1550(D), there is no recalculation of the member’s benefit and the member must receive the previously determined normal retirement benefit based upon the member’s average final compensation and service credit at the time the program period began, plus any applicable cost of living increases declared during the program period.

(G) If a program participant dies during the specified program period, the member’s designated beneficiary must receive the balance in the member’s program account by electing one of the following distribution alternatives:

(1) a lump‑sum distribution, paying appropriate taxes; or

(2) to the extent permitted under law, a tax sheltered rollover into an eligible plan.

In accordance with the form of system benefit selected by the member at the time the program commenced, the member’s designated beneficiary must receive either a survivor benefit or a refund of contributions from the member’s system account. If the member’s beneficiary is eligible to, and elects to, receive a survivorship retirement allowance and the member would have been eligible for a recalculation of his benefit upon termination from the program pursuant to subsection (F), the allowance payable to the member’s beneficiary must be based on the recalculated benefit provided in subsection (F).

~~If a program participant who began participation in the program before July 1, 2005, elected either Option B or Option C under Section 9‑1‑1620, the average final compensation calculated when the member commenced the program must be used in determining the survivor benefit. If a program participant who began participation in the program after June 30, 2005, elected either Option B or C under Section 9‑1‑1620, then the designated survivor beneficiary shall receive a survivor benefit based on a recalculated average final compensation. The average final compensation calculated at the commencement of the program must be increased by an amount up to and including forty‑five days termination pay for unused annual leave received by the member’s legal representative at the member’s death, divided by three. The survivor benefit must be calculated in accordance with Section 9‑1‑1550, utilizing the recalculated average final compensation determined in this subsection, and the member’s service credit, including sick leave, as of the date the member began participation in the program, plus any cost‑of‑living increases declared during the program period with respect to the amount of the member’s deferred program benefit.~~

(H) A program participant shall terminate employment no later than the day before the fifth annual anniversary of the date the member commenced participation in the program.

(I) A member is not eligible to participate in the program if the member has participated previously in and received a benefit under this program or any other state retirement system. However, a member who has received a disability benefit, but who has been restored to active service and voided his optional benefit selection pursuant to Section 9‑1‑1590 and repaid any benefit received is eligible to participate in the program.”

SECTION 11. Section 9‑1‑1810 of the 1976 Code is repealed for adjustments after July 1, 2012.

Part II

Retirement System for Members of the General Assembly

of the State of South Carolina

SECTION 12. A. Section 9‑9‑60 of the 1976 Code, as last amended by Act 334 of 2002, is further amended to read:

“Section 9‑9‑60. (1) A member of the system may retire upon written application to the board setting forth at what time, not 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 at the time specified for retirement, the member is no longer in the service of the State, whether as a member of the General Assembly or otherwise, except as provided in Section 9‑9‑40(3), and has either attained the age of sixty years or completed thirty years of credited service.

(2) Effective July 1, 1989, a retired member shall receive a monthly retirement allowance which is equal to one‑twelfth of four and eighty‑two hundredths percent of earnable compensation multiplied by the number of years of his credited service prorated for periods less than a year.

~~(3)~~ ~~A member who has attained the age of seventy and one‑half years and has twenty‑five years of service or who has attained the age of 70 or has 30 years of service may retire and draw a retirement benefit while continuing to serve in the General Assembly upon written application to the board setting forth at what time, not more than ninety days before nor more than six months after the execution and filing of the application, the member desires to be retired. A member who has retired under this provision shall make no further contributions to the system, shall earn no further service credit, and may not reenter membership in the system.~~

~~The member must retire at the beginning of an annual session of the General Assembly and the election to receive the member’s retirement allowance under this system is in lieu of receiving the constitutionally mandated per diem salary, currently established at ten thousand four hundred dollars for a regular session. This election if made is irrevocable and applies for as long as that person serves thereafter in the General Assembly including service in both regular and extra sessions.~~”

B. A member of the General Assembly who on the effective date of this section is receiving a GARS annuity benefit attributable to that member’s credited service in GARS shall continue to receive that benefit as provided by the provisions of Section 9‑9‑60 in effect immediately before the effective date of this act.

SECTION 13. Section 9-9-120(2) of the 1976 Code is amended to read:

(2) Each member of the System shall contribute ~~ten~~ eleven percent of earnable compensation in each calendar year, up to twenty‑two years of credited service, commencing with the calendar year ~~1976~~ 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

SECTION 14. Article 1, Chapter 11, Title 9 of the 1976 Code is amended by adding:

“Section 9‑11‑312. (A)(1) The retirement allowance received by retirees and their surviving annuitants pursuant to the provisions of this chapter, inclusive of Section 9‑11‑140 are subject to an annual adjustment calculated as provided in this subsection. Annually in November the board shall subtract the assumed annual rate of return on the investments of the assets of the South Carolina Police Officers Retirement System from the five‑year average investment return of the South Carolina Police Officers Retirement System. If the difference of that subtraction is a positive percentage, then retirement allowances paid must be increased by the same percentage, but not more than two and one‑half percent. If the annual calculation percentage results in a positive percentage, but the actual rate of return on the system’s investments for the preceding plan year was less than zero, an increase may not be granted. In no case may the calculation result in an adjustment that decreases benefits. If the annual calculation results in an increased retirement allowance, the board, by December thirty‑first following the calculation, by resolution, shall direct the increase.

(2) For purposes of this subsection, the ‘five‑year average investment return’ means the average of the investment returns of the most recent five plan years ending on June thirtieth before the November calculation date as determined by the board.

(B) An increase in the retirement allowance pursuant to subsection (A) of this section begins the July first immediately following the date of the resolution directing the increase, and all increases in retirement allowances must be granted to those retirees and their surviving annuitants in receipt of a retirement allowance on July first immediately preceding the effective date of the increase. Any increase in allowance granted pursuant to subsection (A) must be included in the determination of any subsequent increase.”

SECTION 15. 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, but before July 1, 2012, 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 prior to the expiration of his term of office.

(b) ‘Average final compensation’ with respect to members retiring after June 30, 2012, 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.”

SECTION 16. 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 ~~a~~ 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, ~~board,~~ 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 ~~a~~ 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, ~~board,~~ 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 ~~a~~ 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, ~~board,~~ 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 ~~a~~ 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, ~~board,~~ 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 ~~a~~ 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 ~~board,~~ 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 ~~a~~ 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, ~~board,~~ 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, but before July 1, 2012, a 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.”

SECTION 17. Section 9‑11‑60(3) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

“(3) ~~Reserved~~ To ensure that a member’s benefit earned and accrued before July 1, 2012, is protected, the benefit provided to a Class One or a Class Two member must be no less than the benefit that would have been provided to the member had the member retired on June 30, 2012, based on his service credit and average final compensation then existing. For purposes of calculating the member’s benefit as if the member retired on June 30, 2012:

(a) it must be presumed that forty‑five days’ termination pay for unused annual leave was paid to the member at retirement based on his career highest salary;

(b) the member shall receive service credit for ninety days of unused sick leave; and

(c) the member’s average final compensation must be computed using the twelve consecutive quarters of the member’s creditable service before July 1, 2012, on which regular contributions as a member were made to the system producing the highest such average.”

SECTION 18. Subsections (1) and (12) of Section 9‑11‑210, as last amended by Act 14 of 2005, 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. Before July 1, 2013, each Class Two member shall contribute to the system ~~six~~ seven ~~and one‑half~~ percent of his compensation. After June 30, 2013, each Class Two member shall contribute to the system seven and one‑half percent of his compensation.

(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. Before July 1, 2015, 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~~ must be included in a member’s average final compensation calculation for those members eligible to have that pay included in that member’s average final compensation calculation.”

SECTION 19. 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 ten percent of compensation of Class Two members in its employ. Such rates of contribution shall be subject to adjustment from time to time on the basis of the annual actuarial valuations of the system; however, after June 30, 2012, the employer contribution rate for Class Two members shall not be less than twelve and three‑tenths percent of the earnable compensation of those members, until an accrued liability contribution is no longer required.”

SECTION 20. Section 9‑11‑310 of the 1976 Code is repealed for adjustments after July 1, 2012.

Part IV

Provisions Application to More Than One Retirement System

SECTION 21. 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.”

SECTION 22. 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 ~~shall~~ 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 ~~shall~~ must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in ~~such~~ 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 ~~shall~~ 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 ~~shall~~ must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in ~~such~~ 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 ~~shall~~ 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 ~~shall~~ must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in ~~such~~ 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 ~~shall~~ 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 ~~shall~~ must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in ~~such~~ 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 V

Miscellaneous, Effective Date

SECTION 23. 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.

SECTION 24. Except where otherwise stated, this act takes effect July 1, 2012.

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