**South Carolina General Assembly**

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**S. 176**

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Summary: Close the South Carolina Retirement System

**HISTORY OF LEGISLATIVE ACTIONS**

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**VERSIONS OF THIS BILL**

[12/9/2020](file:///p:\pprever\2021-22\176_20201209.docx)

**A** **BILL**

TO AMEND THE 1976 CODE BY ADDING SECTION 9‑1‑5 TO CLOSE THE SOUTH CAROLINA RETIREMENT SYSTEM; BY ADDING CHAPTER 22 TO TITLE 9 TO ESTABLISH THE “SOUTH CAROLINA SHARED‑RISK DEFINED BENEFIT PLAN” TO PROVIDE EMPLOYEES WITH A DEFINED BENEFIT RETIREMENT PLAN AND TO PROVIDE DETAILS OF THE PLAN; BY ADDING CHAPTER 24 TO TITLE 9 TO ESTABLISH THE “SOUTH CAROLINA WEALTHBUILDER‑PRIMARY RETIREMENT SAVINGS PLAN” TO PROVIDE EMPLOYEES WITH A DEFINED CONTRIBUTION RETIREMENT PLAN AND TO PROVIDE DETAILS OF THE PLAN; TO AMEND SECTION 9‑1‑310 OF THE 1976 CODE, RELATING TO ADMINISTRATIVE COSTS, TO ADD A REFERENCE TO THE SOUTH CAROLINA SHARED‑RISK DEFINED BENEFIT PLAN; TO AMEND SECTION 9‑1‑1340 OF THE 1976 CODE, RELATING TO CERTAIN CONFLICTS OF INTEREST, TO ADD A REFERENCE TO THE SOUTH CAROLINA SHARED‑RISK DEFINED BENEFIT PLAN; TO AMEND SECTION 9‑11‑40 OF THE 1976 CODE, RELATING TO DEFINITIONS, TO ADD THE “SOUTH CAROLINA SHARED‑RISK DEFINED BENEFIT PLAN” TO THE DEFINITION OF “CORRELATED SYSTEM”; TO AMEND SECTION 9‑16‑10 OF THE 1976 CODE, RELATING TO DEFINITIONS, TO ADD THE “SOUTH CAROLINA SHARED‑RISK DEFINED BENEFIT PLAN” TO THE DEFINITION OF “RETIREMENT SYSTEM”; TO AMEND SECTION 9‑16‑335 OF THE 1976 CODE, RELATING TO THE ASSUMED ANNUAL RATE OF RETURN ON THE INVESTMENTS OF THE SYSTEM, TO PROVIDE THAT THE ASSUMED ANNUAL RATE OF RETURN ON INVESTMENTS OF THE SOUTH CAROLINA SHARED‑RISK DEFINED BENEFIT PLAN MAY NOT EXCEED THE LESSER OF SIX PERCENT OR THREE HUNDRED BASIS POINTS ABOVE THE THREE YEAR AVERAGE OF TWENTY‑YEAR TREASURY YIELDS; TO REPEAL CHAPTER 20, TITLE 9 RELATING TO THE STATE OPTIONAL RETIREMENT PROGRAM; AND TO DIRECT THE CODE COMMISSIONER TO MAKE CERTAIN CHANGES.

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

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

“Section 9‑1‑5. (A) Notwithstanding any other provisions of law, the South Carolina Retirement System (SCRS) established pursuant to this chapter is closed to new members as of July 1, 2020, and except as provided in subsection (B), a person who otherwise would have been required or eligible to become a member of SCRS, instead shall join the South Carolina Shared‑Risk Defined Benefit Plan or the South Carolina WealthBuilder‑Primary Retirement Savings Plan in the manner provided by law.

(B) No later than June 30, 2023, a third party employer may choose to opt out of the South Carolina WealthBuilder‑Primary Retirement Savings Plan, so long as an alternate private retirement plan developed and approved by the third party employer’s governing body is made available for new hires to participate in. Notwithstanding the foregoing, a person hired by third party employers after June 30, 2021, may not be eligible to join the South Carolina Shared‑Risk Defined Benefit Plan. For purposes of this subsection, ‘third party employer’ is any employer admitted to the SCRS before July 1, 2021, that is not specifically included in the provisions of Section 9‑1‑10(14), including nonprofit corporations created under the provisions of Chapter 36, Title 33 for the purpose of supplying water and sewer, hospitals with personnel in SCRS under the provisions of Section 9‑1‑580, and employers of personnel employed pursuant to Chapter 23, Title 6.

(C) Nothing in this section may be construed to alter or otherwise diminish the rights of persons who are active contributing members or retired contributing members of SCRS or who are retired members of that system or who are beneficiaries of deceased members of that system.

(D) Nothing in this section may relieve third party employers from liabilities associated with contributing members’ participation in SCRS. A third party employer may buyout their unfunded liability by making a one‑time payment equal to the net present value of those outstanding benefits. The net present value must be calculated using a discount rate determined by the board as defined under the provisions of Section 9‑1‑10(6), not to exceed the three‑year average of twenty‑year treasury yields.”

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

“CHAPTER 22

South Carolina Shared‑Risk Defined Benefit Plan

ARTICLE 1

General Provisions

Section 9‑22‑10. As used in this chapter, unless a different meaning is plainly required by the context:

(1) ‘Accumulated contribution’ means the sum of all the amounts deducted from the compensation of a member and credited to the members individual account in the employee annuity savings fund, together with regular interest on the account, as provided in this chapter.

(2) ‘Active member’ means an employee who is compensated by an employer participating in the system and who is making regular retirement contributions to the system.

(3) ‘Actuarial equivalent’ means a benefit of equal value when computed upon the basis of mortality tables adopted by the board and regular interest.

(4)(a) ‘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.

(b) ‘Average final compensation’ with respect to Class Four members means the average annual earnable compensation of a member during the thirty‑two 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.

(5) ‘Beneficiary’ means a person in receipt of a pension, an annuity, a retirement allowance or other benefit provided under the system.

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

(7) ‘Creditable service’ means a member’s earned service, prior service, and purchased service.

(8) ‘Date of Establishment’ means July 1, 2020.

(9) ‘Director’ means the Executive Director of PEBA.

(10) ‘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, including gross salary, sick pay and deferrals; 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. For work performed by a member after December 31, 2012, earnable compensation does not include any overtime pay not mandated by the employer.

(11) ‘Earned service’ means:

(a) paid employment as a teacher or employee of an employer participating in the system where the teacher or employee makes regular retirement contributions to the system;

(b) service rendered while participating in the South Carolina WealthBuilder‑Primary Retirement Savings Plan or the State Optional Retirement Program that has been purchased pursuant to this chapter; or

(c) 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.

(12) ‘Educational service’ means paid service as a classroom teacher in a public, private, or sectarian school providing elementary or secondary education, kindergarten through grade twelve.

(13)(a) ‘Eligible Employee’ means:

(i) to the extent compensated by this State, an employee, agent, or officer of the State or any of its departments, bureaus, and institutions, other than the public schools, whether the employee is elected, appointed, or employed;

(ii) the president, dean, professor, or teacher or any other person employed in any college, university, or educational institution of higher learning supported by and under the control of the State;

(iii) an employee, agent, or officer of a county, municipality, or school district, or an agency or department of any of these, which has been admitted to the system under the provisions of Section 9‑1‑470, to the extent the employee, agent, or officer is compensated for services from public funds;

(iv) an employee of the extension service and any other employee a part of whose salary or wage is paid by the federal government if the federal funds from which the salary or wage is paid before disbursement become state funds;

(v) an employee of a service organization, the membership of which is composed solely of persons eligible to be teachers or employees as defined by this section, if the compensation received by the employees of the service organization is provided from monies paid by the members as dues or otherwise, or from funds derived from public sources and if the employee contributions prescribed by this title are paid from the funds of the service organization;

(vi) an employee of an alcohol and drug abuse planning agency authorized to receive funds pursuant to Section 61‑12‑20; or

(vii) an employee of a local council on aging or other governmental agency providing aging services funded by the Office on Aging, Office of the Lieutenant Governor.

(b) ‘Eligible Employee’ does not include supreme and circuit court judges, any person whose services are remunerated solely by per diem payments, or any person employed by a school, college, or university at which the person is enrolled as a student or otherwise regularly attending classes for academic credit unless the person is employed as a school bus driver and is paid by the same school district in which the person is enrolled in school. In determining student status, the system may consider the guidelines of the Social Security Administration regarding student services and other criteria the system uniformly prescribes. ‘Eligible employee’ does not include an employee of a nonprofit corporation created under the provisions of Chapter 36, Title 33 for the purpose of supplying water and sewer, a hospital that has been granted admittance to the South Carolina Retirement System pursuant to Section 9‑1‑580, an employer that has been granted admittance pursuant to Chapter 23, Title 6, or any other Third Party Employer not described herein, as defined in Section 9‑1‑5(B), regardless of whether the employee is a member of any other retirement system or plan under the administration of the board.

(14) ‘Employee annuity’ means annual payments for life derived from the accumulated contributions of a member.

(15) ‘Employee annuity reserve’ means the present value of all payments to be made on account of an employee annuity or benefit in lieu of the employee annuity, computed on the basis of mortality tables adopted by the board and regular interest.

(16)(a) ‘Employer’ means this State, a county board of education, a district board of trustees, the board of trustees or other managing board of a state‑supported college or educational institution, or any other agency of this State by which a teacher or employee is paid; the term ‘employer’ also includes a county, municipality, or other political subdivision of the State, or an agency or department of any of these, which has been admitted to the system pursuant to Section 9‑1‑470, a service organization referred to in item (13)(e), an alcohol and drug abuse planning agency authorized to receive funds pursuant to Section 61‑12‑20, and a local council on aging or other governmental agency providing aging services funded by the Office on Aging, Office of the Lieutenant Governor.

(b) ‘Employer’ does not include a nonprofit corporation created pursuant to Chapter 36, Title 33 for the purpose of supplying water and sewer, a hospital that has been granted admittance to the South Carolina Retirement System under the provisions of Section 9‑1‑580, an employer that has been granted admittance pursuant to Chapter 23, Title 6, or any other Third Party Employer not described herein, as defined in Section 9‑1‑5(B).

(17) ‘Employer annuity’ means annual payments for life derived from money provided by the employer.

(18) ‘Employer annuity reserve’ means the present value of all payments to be made on account of an employer annuity or benefit in lieu of the employee annuity, computed on the basis of mortality tables adopted by the board and regular interest.

(19) ‘Member’ means a teacher or employee included in the membership of the system as provided in this chapter.

(20)(a) ‘Class Three member’ means an employee member of the correlated system as defined in Section 9‑22‑390 with an effective date of membership after June 30, 2012, and before July 1, 2022.

(b) ‘Class Four member’ means an employee member of the system with an effective date of membership after June 30, 2022.

(21) ‘Military service’ means:

(a) service in the United States Army, United States Navy, United States Marine Corps, United States Air Force, or United States Coast Guard;

(b) service in the select reserve of the Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or the Coast Guard Reserve; and

(c) service as a member of the Army National Guard or Air National Guard of this or any other state.

(22) ‘Nonqualified service’ means purchased service other than public service, educational service, military service, leave of absence, and reestablishment of withdrawals.

(23) ‘Public school’ means a school conducted within this State under the authority and supervision of a duly elected or appointed school district board of trustees.

(24) ‘Public service’ means service as an employee of the government of the United States, a state or political subdivision of the United States, or an agency or instrumentality of any of these. ‘Public service’ does not include educational service or military service. ‘Public service’ does include paid service rendered as an employee of a postsecondary public technical college or public junior college, or a public four‑year or postgraduate institution of higher learning, while the member was a student at that institution.

(25) ‘Purchased service’ means service credit purchased by an active member while an employee of an employer participating in the system.

(26) ‘Regular interest’ means interest compounded annually at a rate determined by the board.

(27) ‘Retirement’ means the withdrawal from active service with a retirement allowance granted under the system.

(28) ‘Retirement allowance’ means the sum of the employer annuity and the employee annuity or any optional benefit payable in lieu of the annuity.

(29) ‘Retirement system’ or ‘system’ means the South Carolina Shared‑Risk Defined Benefit Plan established under this chapter.

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

(31) ‘Teacher’ means a classroom teacher employed in the public schools supported by this State as determined by the board.

Section 9‑22‑20. (A) A retirement system is hereby created and placed under the administration of the board to provide retirement allowances and other benefits for eligible employees defined in this chapter. The system shall begin operation on July 1, 2022. It shall have the power and privileges of a corporation and shall be known as the South Carolina Shared‑Risk Defined Benefit Plan, and by such name all of its business must be transacted, all of its funds invested, and all of its cash, securities and other property held. Eligibility is determined solely by the board. The South Carolina Shared‑Risk Defined Benefit Plan is a qualified government‑defined benefit retirement plan. As defined under Statement No. 27, No. 67, and No. 68 of the Governmental Accounting Standards Board (GASB), the system is a cost‑sharing multiple‑employer plan.

(B) There is hereby created an office to be known as Director of the South Carolina Shared‑Risk Defined Benefit Plan. The director of PEBA shall serve as director of this system.

Section 9‑22‑30. All property owned or acquired by the retirement system for the purposes of this chapter are exempt from all taxes imposed by the State or any political subdivision thereof.

Section 9‑22‑40. Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record of the system in any attempt to defraud the system as a result of such act is guilty of a misdemeanor and, on conviction thereof by any court of competent jurisdiction, must be punished by a fine not exceeding five hundred dollars or imprisonment in the county jail not exceeding twelve months, or both fine and imprisonment at the discretion of the court.

Section 9‑22‑50. The State hereby reserves the right, in case the Federal Social Security Act be amended that the members or beneficiaries of the system can be included in the old age and survivors insurance plan provided for in the federal act, to revise the system upon a fair and equitable basis so that the members or beneficiaries of the system may be included under the provisions of the federal act.

Section 9‑22‑60. Payments made to beneficiaries pursuant to the provisions of this chapter may include payments to a person or persons, trustees, and estates.

ARTICLE 2

Administration

Section 9‑22‑200. The general administration and responsibility for the proper operation of the system and for making effective the provisions hereof are hereby vested in the board.

Section 9‑22‑210. The board shall engage actuarial and other services as may be required to transact the business of the System.

Section 9‑22‑220. The board shall designate an actuary, subject to the approval of the State Fiscal Accountability Authority, or its successor, who is the technical advisor of the board on matters regarding the operation of the system and shall perform such other duties as are required in connection therewith, provided, however, that the Retirement System Investment Commission is a third‑party beneficiary of the contract with the actuary, with full rights to all actuarial valuations prepared by the actuary. The board shall provide to the State Fiscal Accountability Authority or its successor actuarial valuations and reports requested.

Section 9‑22‑230. At least once in each five‑year period, the first of which shall be in 2027, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the system and shall make a valuation of the contingent assets and liabilities of the system and the board, after taking into account the results of such investigations and valuations, shall adopt for the system such mortality, service and other tables as may be deemed necessary.

Section 9‑22‑240. On the basis of regular interest and tables last adopted by the board, the actuary shall make an annual valuation of the contingent assets and liabilities of the system.

Section 9‑22‑250. The board shall keep in convenient form such data as may be necessary for actuarial valuation of the contingent assets and liabilities of the system and for checking the experience of the system.

Section 9‑22‑260. The board shall determine from time to time the rate of regular interest for use in all calculations, with the rate of three per cent per annum applicable unless heretofore or hereafter changed by the board.

Section 9‑22‑270. Subject to the limitations hereof, the board shall, from time to time, establish rules and regulations for the administration of the system and for the transaction of business. The board shall also, from time to time, in its discretion, adopt rules and promulgate regulations to prevent injustices and inequalities which might otherwise arise in the administration of the system.

Section 9‑22‑280. The board shall keep a record of all its proceedings under this chapter, which must be open to public inspection. It shall publish annually a report showing the fiscal transactions of the system for the preceding year, the amount of the accumulated cash and securities of the system and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the contingent assets and liabilities of the system. Notwithstanding any other provisions of law governing the system, all persons employed by the board and the expenses of the board to carry out the provisions of this chapter must be paid from the interest earnings of the system.

ARTICLE 3

Membership in System

Section 9‑22‑300. (A) The membership of the system must be composed as provided in this article.

(B) The membership of the system shall include eligible employees that have made an election to join as authorized pursuant to subsection (A), (B) or (C) of Section 9‑24‑40.

(C) Hospitals shall not be employers under the South Carolina Shared‑Risk Defined Benefit Plan, and no persons employed by a hospital, including a hospital that is an employer under the South Carolina Retirement System pursuant to Chapter 1 or any other retirement system under the administration of the Board, are eligible to join the system.

Section 9‑22‑310. Notwithstanding any other provision of law, a contributing member of the system shall remain a contributing member while under employment to an employer covered by the system.

Section 9‑22‑320. A county, municipality, or other political subdivision of the State, an agency or department of them, including a school board and a service organization as defined in this chapter, may become an employer by applying to the board for admission to the system and by complying with the requirements and the regulations of the board.

Section 9‑22‑330. All persons who are employed by any county, municipality, or other political subdivision or agency or department of them, any eligible service organization, after the admission of the county, municipality, or other subdivision, agency, or department of them, or service organization into the system under the provisions of this section, may elect to become members of the system. All persons, who are employed by any county, municipality, or other political subdivision or agency or department of them, or by any eligible service organization at the date of the admission of the county, municipality, or other subdivision or agency or department, or eligible service organization, into the system under the provisions of this section may elect to become members on the date of the admission.

Section 9‑22‑340. Members of the General Assembly who were first elected at the 2012 General Election or later shall become members of the South Carolina Shared‑Risk Defined Benefit Plan unless the member exercises the option by June 30, 2023, or within sixty days after entering upon the discharge of such duties not to become a member of the system. Elected officials who are not full‑time employees and who earn nine thousand dollars annually, or less, may exercise an option not to become members of the system.

Section 9‑22‑350. Members of the General Assembly who have been members of the system for at least ten years may elect to remain a member of the system within one year following termination of service in the General Assembly and shall make yearly contributions to the system in an amount equivalent to contributions payable by active members of the General Assembly.

Section 9‑22‑360. In all cases of doubt, the board shall determine whether any person is a teacher or employee for the purposes of the system.

Section 9‑22‑370. Subject to the provisions of Chapter 3, no other provisions of law in any other statute which provides wholly or partly at the expense of the State for annuities, pensions or retirement benefits for teachers or employees of the State, their widows or other dependents, shall apply to members or beneficiaries of the system, their widows or other dependents.

Section 9‑22‑380. (A) The director is authorized to permit any member of the system who has joined through error or misunderstanding to withdraw from the system.

(B) A member of the system may irrevocably elect to join the South Carolina WealthBuilder‑Primary Retirement Savings Plan (WPRS) under Chapter 20 during any open enrollment period as defined in Section 9‑24‑10(5) after the first annual anniversary but before the fifth annual anniversary of the person’s initial enrollment in the South Carolina Shared‑Risk Defined Benefit Plan. After making an election pursuant to this subsection, the South Carolina Shared‑Risk Defined Benefit Plan member shall become a member of the WPRS effective on the first of April following the participant’s election to join the WPRS.

(C) No later than six months prior to the last open enrollment period before the fifth annual anniversary of a person’s enrollment in the South Carolina Shared‑Risk Defined Benefit Plan, the Public Employee Benefit Authority shall notify, in writing, all members of their eligibility, if applicable, to switch enrollment to the WPRS pursuant to the preceding subsection.

Section 9‑22‑390. (A) As used in this section, ‘correlated system’ means one or more of the following:

(1) South Carolina Retirement System;

(2) South Carolina Police Officers’ Retirement System;

(3) Retirement System for members of the General Assembly of the State of South Carolina;

(4) South Carolina Shared‑Risk Defined Benefit Plan.

(B) If a member of any correlated system ceases to occupy a position covered under the system and if, within the protective period and under such conditions as are set forth in the correlated system for continuation of membership, he accepts a position covered by another correlated system, he shall notify the director of each system of the employment, and his membership in the first system must be continued so long as his membership in the other system continues. Service credited to the member under the provisions of the first system must be considered service credits for the purpose of determining eligibility for benefits, but not the amount thereof, under the other system. Any benefit under any one of the correlated systems must be computed solely on the basis of service and contributions credited under that system, and must be payable at such times and subject to such age and service conditions as are set forth therein, except the average final salary under either the South Carolina Retirement System, Shared‑Risk Defined Benefit Plan, or the Police Officers’ Retirement System may be used for the benefit calculation under both systems for consecutive earned service credit. A member shall not be eligible to receive retirement payments so long as he is employed in a position covered by the South Carolina Retirement System, Shared‑Risk Defined Benefit Plan, or the South Carolina Police Officers’ Retirement System.

ARTICLE 4

Creditable Service

Section 9‑22‑400. The Board shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all services in one year. Service rendered for the regular school year in any district is equivalent to one year’s service.

ARTICLE 5

Collections for Funds

Section 9‑22‑500. All of the assets of the system are credited, according to the purpose for which they are held, to two bookkeeping accounts, hereinafter referred to as ‘funds’. The accounts are referred to as the employee annuity savings fund and the employer annuity accumulation fund.

Section 9‑22‑510. The collection of members’ contributions is as follows:

(1)(a) Each employer must cause to be deducted on each and every payroll of a member the contributions payable by the member. In determining the amount to be deducted in a payroll period, the employer may consider the rate of compensation of the member on the first day of the payroll period as continuing throughout the payroll period and it may omit deduction from compensation for any period less than a full payroll period if the employee was not a member on the first day of the payroll period. The chief fiscal officer of each employer shall transmit the amounts deducted to the system together with a schedule of the contributions, on forms prescribed by the board, to reach the retirement system on or before the last day of each month for the preceding month. If any employer fails to do so, or if arrears should at any time exist in making monthly payroll reports and remittances as required hereunder and by the rules and regulations of the board, the compensation of any person or officer of any employer charged with the responsibility of making monthly payroll reports and remittances to the system must be withheld by the employer in each instance of failure to make the reports and remittances until all reports and remittances required hereunder and by the rules and regulations of the board have been made. The system shall furnish monthly to the disbursing officers of each employer a statement of any failure to make payroll reports and remittances and the names of the persons or officers failing to make the reports and remittances.

(b) Any person failing to transmit, in the manner and within the period required, the contributions deducted is guilty of a misdemeanor and must be punished by fine or imprisonment, or both, in the discretion of the court.

(2) Every member is deemed to consent and agree to the deductions made and provided for herein, and shall receipt for his full salary or compensation, and payment of salary or compensation less such deduction must be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under the system.

(3) Each of the amounts deducted must be credited to the individual account of the member from whose compensation the deduction was made.

(4) Each department and political subdivision shall pick up the employee contributions required by this section for all compensation paid, and the contributions so picked up must be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code. 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.

(5) Termination pay for unused annual 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.

(6) The deductions provided for in this section must be made notwithstanding that the minimum compensation provided for by law for any member must be reduced. Every member is deemed to consent and agree to the deduction made and provided for in said section and shall receipt for his full compensation, and payment of compensation less such deduction must be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by person during the period covered by payments, except as to the benefits provided hereunder.

Section 9‑22‑520. (A) 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 must be charged.

(B) There must 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 must 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 this chapter.

Section 9‑22‑530. On the basis of regular interest and of such mortality and other tables as are adopted by the board, the actuary engaged by the board to make each annual valuation during the period over which the accrued liability contribution is payable, immediately after making such valuation, shall determine the uniform and constant percentage of the earnable compensation of the average new entrant throughout his entire period of active service which would be sufficient to provide for the payment of any employer annuity payable on his account. The rate percent so determined shall be known as the ‘normal contribution rate’. After the accrued liability contribution has ceased to be payable, the normal contribution rate shall be the rate percent of the earnable compensation of all members obtained by deducting from the total liabilities of the employer annuity accumulation fund the amount of the funds in hand to the credit of that account and dividing the remainder by one per cent of the present value of the prospective future earnable compensation of all members as computed on the basis of the mortality and service tables adopted by the board and regular interest. The normal rate of contribution must be determined by the actuary after each valuation.

Section 9‑22‑540. The rate percent determined immediately after the first valuation by the actuary engaged by the board as the rate percent of the total annual earnable compensation of all members which is not dischargeable by the aforesaid normal contribution made on account of such members during the remainder of their active service shall be known as the ‘accrued liability contribution rate’. Such rate must be increased on the basis of subsequent valuations if benefits are increased over those included in the valuation on the basis of which the original accrued liability contribution rate is determined. Upon certification by the actuary engaged by the board that the accrued liability contribution rate may be reduced without impairing the system, the board may cause the accrued liability contribution rate to be reduced.

Section 9‑22‑550. The total amount payable in each year by each employer for credit to the employer annuity accumulation fund shall not be less than the sum of the rate percent known as the normal contribution rate and the accrued liability contribution rate of the total earnable compensation of all members during the preceding year. The aggregate payment by employers must 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 9‑22‑560. (A)(1)(a) The employer contribution rate is the sum of:

(i) one‑half of the system’s normal contribution rate;

(ii) one‑half of the system’s accrued liability contribution rate;

(iii) one hundred percent of the cost of the incidental death benefit plan provided in this chapter expressed as a percentage of earnable compensation; and

(iv) one hundred percent of the cost of the death benefit plan pursuant to Section 9‑22‑890 expressed as a percentage of earnable compensation.

(b) The employer contribution rate for employers that do not participate in the incidental death benefit plan must be adjusted accordingly.

(2) The board shall increase or decrease the employer contribution rate on the basis of the actuarial valuation provided to the board by the system’s actuaries and any adjustments to the normal contribution rate, the accrued liability contribution rate, and the cost of the death benefit plan under Section 9‑22‑890.

(3) The employer contribution rate does not include contributions for group life insurance or other benefits that are remitted to the retirement systems. Contributions for group life insurance or other benefits are in addition to the applicable employer contribution rate.

(4) An increase in the employer contribution rate adopted by the board pursuant to this section may not provide for an increase in an amount of more than one and one‑half percent of earnable compensation in any one year.

(5) The employer contribution rate shall not be less than the normal contribution rate.

(B)(1) The employee contribution rate is the sum of:

(a) one‑half of the system’s normal contribution rate; and

(b) one‑half of the system’s accrued liability contribution rate.

(2) The board shall increase or decrease the employee contribution rate on the basis of the actuarial valuation provided to the board by the system’s actuaries and any adjustments to the normal contribution rate and the accrued liability contribution rate.

(3) An increase in the employee contribution rate adopted by the board pursuant to this section may not provide for an increase in an amount of more than one percent of earnable compensation in any one year.

(4) Except as provided for in subsection (D)(1), the employee contribution rate shall not be less than the normal contribution rate.

(C)(1) The unfunded actuarial accrued liability (UAAL) of the system as determined by the annual actuarial valuation must be amortized over a funding period adopted by the board, not to exceed ten years.

(2) Notwithstanding item (1), the amortization schedule must be calculated on a layered and level‑dollar basis, such that the same dollar amount is paid each year of the scheduled amortization of the unfunded liabilities.

(3) If the employer and employee contributions provided in subsections (A) and (B) are insufficient to meet the funding period set forth in item (1) for the applicable year, then the board shall increase the employer and employee contribution rate as necessary to meet the funding period set forth in item (1). Such adjustments may be made without regard to the annual limit increase of one and one‑half percent of earnable compensation for employers provided pursuant to subsection (A)(4) and one percent of earnable compensation for employees provided pursuant to subsection (B)(3). Participating employers and employee members must be notified of any contribution rate increase required by this item by July first of the fiscal year preceding the fiscal year in which the increase takes effect.

(D)(1) After June 30, 2023, if the most recent annual actuarial valuation of the system shows ratios of both: (a) the actuarial value of system assets to the actuarial accrued liability of the system (the funded ratio); and (b) the market value of system assets to the actuarial accrued liability of the system, that are equal to or greater than one hundred twenty‑five percent, then the board, effective on the following July first, may decrease the then current employee contribution rate below the normal contribution rate upon making a finding that the decrease will not result in a funded ratio of less than one hundred twenty‑five percent. In no event shall the employer contribution rate be decreased below the normal contribution rate upon achieving any funded ratio.

(2) If contribution rates are decreased pursuant to item (1) and the most recent annual actuarial valuation of the system shows a funded ratio of less than one hundred percent, then effective on the following July first, and annually after that time as necessary, the board shall first increase the then current employee contribution rate to the normal contribution rate. Thereafter, employer and employee contribution rates must be increased in equal amounts not exceeding one‑half of one percent of earnable compensation in any one year until a subsequent annual actuarial valuation of the system shows a funded ratio that is equal to or greater than one hundred percent.

Section 9‑22‑570. The accrued liability contribution must be discontinued as soon as the accumulated reserve in the employer annuity accumulation fund shall equal the present value, as actuarially computed and approved by the board, of the total liability of such fund less the present value, computed on the basis of the normal contribution rate then in force, of the prospective normal contributions to be received on account of all persons who are at the time members.

Section 9‑22‑580. All employer annuities, and benefits in lieu thereof, must be paid from the employer annuity accumulation fund.

Section 9‑22‑590. The maintenance of employee annuity reserves and employer annuity reserves as provided for in this chapter and regular interest creditable to the various funds as provided in this article and the payment of all annuities, retirement allowances, refunds, and other benefits granted in this chapter, are made obligations of the employer annuity accumulation fund. All income, interest, and dividends derived from deposits and investments authorized must be used for payment of the obligations of the fund.

Section 9‑22‑600. Should any beneficiary be restored to active service and again become a member under the provisions this chapter, his employee annuity reserve must be transferred from the employer annuity accumulation fund to the employee annuity savings fund and credited to his individual account.

Section 9‑22‑610. All interest and dividends earned on the invested assets of the system must be credited to the employer annuity accumulation fund. The board shall credit regular interest to the individual accounts of members in the employee annuity savings fund and shall transfer the amounts of the credits from the employer annuity accumulation fund. Any interest credited to the individual account of a member in the employee annuity savings fund and not payable to him pursuant to Section 9‑22‑820 upon his ceasing to be a teacher or employee except by death or retirement must be transferred from the fund to the employer annuity accumulation fund.

Section 9‑22‑620. (A) Interest must be credited to the account of each member once each year as of June thirtieth, on the basis of the balance in the account of each member as of the previous June thirtieth. Upon the death, retirement, or termination of a member, interest must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in the member’s account as of the June thirtieth immediately preceding the date of refund or retirement.

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

Section 9‑22‑630. (A) An active member may establish service credit for any period of paid public service by making an actuarially neutral payment to the system as determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the South Carolina WealthBuilder‑Primary Retirement Savings Plan (WPRS), if the member has purchased service rendered under this program. Periods of less than a year must be prorated. A member may not establish credit for a period of public service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for public service to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

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

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

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

(E) An active member who has five or more years of earned service credit may establish up to five years of nonqualified service by making an actuarially neutral payment to the system to be determined by the actuary for the board based on the member’s current age and service credit, but not less than thirty‑five percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the WPRS plan, if the member has purchased service rendered under this program. 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 WPRS plan, by making an actuarially neutral payment to the system to be determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the system or in the WPRS plan. 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, or shared‑risk 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 WPRS plan, must be treated as earnable compensation and must be used in calculating a member’s average final compensation. A member purchasing service under this subsection who has funds invested in a TIAA Traditional account under a TIAA‑CREF Retirement Annuity contract is eligible to make a plan to plan transfer in accordance with the terms of that contract.

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

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

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

(J) Service credit purchased under this section is not ‘earned service’ and does not count toward the required eight 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 WPRS plan; 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) 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.

(N) An active member who is terminated within one year of retirement eligibility shall have five business days after the date of termination to purchase any service credit that the member is otherwise eligible to purchase under this section.

Section 9‑22‑640. The collection of employers’ contributions must be made as follows:

(1) Upon the basis of each actuarial valuation provided herein the board shall annually prepare and certify to each employer a statement of the total amount payable by the employer for the ensuing fiscal year to the employer annuity accumulation fund and this amount must be handled and disbursed in accordance with the usual appropriations.

(2) The chief fiscal officer of each employer shall transmit funds which are due in the retirement system office no later than the last day of the month on account of each employee who is a member of the system an amount sufficient to cover the normal contribution and the accrued liability contribution of each member employed by the employer for the preceding month. Delinquent payments must be charged interest compounded annually based on the adjusted prime rate charged by banks, rounded to the nearest full percent. The effective date of the adjustment must be based on the twelve‑month period ending March thirty‑first of any calendar year and must be established by April fifteenth for an effective date of the next July first. The adjusted prime rate charged by banks means the average predominant prime rate quoted by commercial banks to large businesses as determined by the Board of Governors of the Federal Reserve System. The adjusted prime rate used must be the adjusted prime rate charged by the bank during March of that year.

(3) If within ninety days after request by the board any employer has not provided the system with the records and other information required under this item or if the full accrued amount of the contributions and interest provided for under this section due from members employed by an employer or from an employer other than the State has not been received by the system from the chief fiscal officer of the employer within thirty days after the last due date as provided in this item, then upon notification by the board to the State Treasurer and Comptroller General as to the default of the employer as provided in this item, any distributions which might otherwise be made to the employer from any funds of the State must be withheld from the employer until notice from the board to the State Treasurer that the employer is no longer in default.

Section 9‑22‑650. The board may make changes in the accounting methods and procedures of the system from time to time as, in its opinion, are in the interest of sound and proper administration.

ARTICLE 7

Retirement and Retirement Benefits

Section 9‑22‑700. (A) A Class Three or Class Four 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.

(B) A member who is an elected official whose annual compensation is less than the earnings limitation and who is otherwise eligible for service retirement may retire for purposes of this section without a break in service.

Section 9‑22‑710. (A) The benefits for a member electing early retirement under this section must be calculated in the manner provided in Section 9‑22‑740, 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.

(B) A member who elects early retirement under this section is ineligible to receive any retirement allowance adjustment 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 not retired, whichever is earlier.

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

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

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

(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) by paying the total premium cost, including the employer’s contribution, in the manner provided by the Division of Insurance Services of the board.

Section 9‑22‑720. (A)(1) Upon the application of a member in service or of the member’s employer, a member who has the years of earned service required for the member’s class pursuant to Section 9‑1‑1510 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 the date of filing.

(2) The South Carolina Retirement System may contract with the Department of Vocational Rehabilitation to evaluate the medical evidence submitted with the disability application relative to the job being performed and make recommendations to the medical board. The system may approve a disability retirement subject to the member participating in vocational rehabilitation with the Department of Vocational Rehabilitation. Upon determination by the department that a member retired on disability is able to reenter the job market and work is available, the retirement system may adjust the benefit paid by the system in accordance with Sections 9‑1‑1580, 9‑1‑1590, 9‑9‑60, 9‑11‑90, 9‑22‑750 and 9‑22‑760.

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

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

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

(D) A member who is retired on a disability retirement allowance, and who has not yet attained the age of sixty‑five years, shall, upon request of the board but not more than once annually, provide proof to the system that the member remains qualified for the receipt of Social Security disability benefits. A member’s disability retirement allowance ceases upon a determination by the Social Security Administration that the member is no longer entitled to Social Security disability benefits for any reason. If any disability beneficiary who has not yet attained the age of sixty‑five years refuses to provide proof of disability required by the board, the member’s disability retirement allowance must be discontinued until the member provides such proof. If a member’s refusal to provide proof that the member remains qualified for Social Security disability benefits continues for one year, all of the member’s rights in and to the member’s disability retirement allowance pursuant to Section 9‑1‑1540 may be revoked by the board.

(E) Upon retirement for disability, a member shall receive a disability retirement allowance equal to one and eighty‑two hundredths percent of his average final compensation, multiplied by the number of years of his creditable service as of the date of retirement, without reduction because of commencement before the normal retirement date. Notwithstanding any other provision of this section, upon retirement for disability at any age, a member must receive a disability retirement allowance equal to at least fifteen percent of his average final compensation.

Section 9‑22‑730. A member may submit an application for service retirement and disability retirement. If the member qualifies for service retirement before the application for disability retirement is approved, the member, upon his request, may begin receiving service retirement benefits immediately. If the application for retirement disability is subsequently approved, the member may choose either the service retirement plan or the disability retirement plan.

Section 9‑22‑740. Upon retirement from service, a Class Three or Class Four 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) 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 9‑22‑750. (A) Should the system report and certify to the board that the disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the board concur in the report, then the amount of his disability retirement allowance must be reduced to an amount which, together with the amount earnable by him, equals the amount of his average final compensation. Should his earning capacity be later changed, the amount of his disability retirement allowance may be further modified. The new disability retirement allowance shall not exceed the amount of the disability retirement allowance originally granted nor an amount which, when added to the amount earnable by the beneficiary, equals the amount of his average final compensation.

(B) The average final compensation may be increased up to ten percent annually to adjust for inflation.

(C) If the disability retirement allowance is eliminated as a result of this section for a period of five consecutive years, then all rights in and to his disability retirement allowance are revoked. The member then is entitled to a deferred retirement allowance as provided in this chapter based upon his average final compensation and creditable service at his date of disability retirement.

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

Section 9‑22‑760. (A) A disability beneficiary restored to active service at a salary less than his average final compensation shall not become a member of the system and his employer annuity must be adjusted in accordance with the provisions of Section 9‑22‑750.

(B) Should a disability beneficiary under the age of sixty‑five years be restored to active service and his compensation then, or at any time thereafter, be equal to or greater than his average final compensation at retirement, his retirement allowance shall cease and any election of an optional benefit shall become void and he shall again become a member of the system and contribute thereafter as provided in this chapter. Any prior service certificate on the basis of which his service was computed at the time of his retirement must be restored to full force and effect and, in addition, upon his subsequent retirement he must be credited with all his service as a member. The average final compensation may be increased up to ten percent annually to adjust for inflation.

(C) Should any other beneficiary who has been restored to active employment continue in service for a period of forty‑eight consecutive months and his annual compensation be equal to or greater than seventy‑five percent of his average final compensation at retirement, then he may elect to cease his retirement allowance and become a contributing member again and void his election of an optional benefit. Any prior service certificate on the basis of which his service was computed at the time of his retirement must be restored to full force and effect and, in addition, upon his subsequent retirement he must be credited with all his service as a member. Any such beneficiary may request the board to allow him to repay to the system all monies received by him as benefits during any periods subsequent to the date of his reentry into active service and make a contribution equal to the amount he would have contributed had he been a member during the period of his restoration to active service prior to his again becoming a member, together with the interest which would have been credited to the contributions on account of such period of restoration up to the date such contribution is made. Upon the completion of such payment, this period shall also be credited to him as membership service. In no event shall the retirement allowance payable upon subsequent retirement be less than the amount of his allowance previously payable plus any increases which would have been payable had he not been restored to service.

Section 9‑22‑770. Any person who has been an active member of the South Carolina Retirement System and who meets all of the requirements and qualifications for retirement, and is or becomes a member of the General Assembly, must be allowed, at his option, to draw his retirement.

Section 9‑22‑780. All retirement allowances are payable in monthly installments. Upon the death of a retired member, the retirement allowance for the month the retired member died, if not previously paid, must be paid to the member’s designated beneficiary, if the beneficiary is living at the time of the member’s death, otherwise to the member’s estate. If the retired member elected a survivor option pursuant to the optional forms of allowances in Section 9‑22‑790, any allowance payable to a survivor beneficiary commences in the month after the death of the retired member.

Section 9‑22‑790. (A) No later than the date the first payment of a retirement allowance is due, a member shall elect a form of monthly payment from the following options:

(1) Option A. The maximum retirement allowance payable under law for the life of the member. Upon the member’s death, the member’s designated beneficiary is entitled to receive any remaining member contributions.

(2) Option B. A reduced retirement allowance payable during the retired member’s life, which continues after the member’s death for the life of the member’s designated beneficiary or, if the member selects multiple beneficiaries, which continues after the member’s death in equal shares to and for the life of each of two or more beneficiaries. The reduced retirement allowance payable under this option must be the actuarial equivalent of the maximum retirement allowance payable to the member under law, and if the member selects multiple beneficiaries, the benefit reduction factor must be based on the average age of the designated beneficiaries. If all of the designated beneficiaries predecease the member, then the member shall receive a retirement allowance equal to the maximum retirement allowance payable under law to the member. Any retirement allowance payable under this option, except an allowance for disability retirement, must be subject to the incidental death benefit limitation upon the payment of survivorship benefits to a nonspouse beneficiary under Section 401(a)(9)(G) of the Internal Revenue Code and Treasury Regulation Section 1.401(a)(9)‑6, Q&A‑2.

(3) Option C. A reduced retirement allowance payable during the retired member’s life, which continues after the member’s death at one‑half the rate paid to the member for the life of the member’s designated beneficiary or, if the member selects multiple beneficiaries, which continues after the member’s death at one‑half the rate paid to the member in equal shares to and for the life of each of two or more beneficiaries. The reduced retirement allowance payable under this option must be the actuarial equivalent of the maximum retirement allowance payable to the member under law, and if the member selects multiple beneficiaries, the benefit reduction factor must be based on the average age of the designated beneficiaries. If all of the designated beneficiaries predecease the member, then the member shall receive a retirement allowance equal to the maximum retirement allowance payable under law to the member.

(B)(1) A retired member, within five years after a change in marital status, may revoke the form of monthly payment elected and elect a new form of monthly payment, which must be the actuarial equivalent of the maximum retirement allowance payable to the member under law. The new form of monthly payment is effective on the first day of the month in which the election of the new form of monthly payment is received by the system and must be calculated based upon the ages of the retired member and the member’s beneficiary or beneficiaries as of that effective date.

(2) Notwithstanding any other provision of law, a retired member’s form of monthly payment may not be changed more than twice. A reversion to the maximum retirement allowance payable under law upon the death of the beneficiary or beneficiaries as provided in Options B and C of subsection (A) constitutes a change in the form of monthly payment for the purposes of this item.

(C) Except as provided in this section, a retired member may not change the form of his monthly payment after the first payment of a retirement allowance is due.

Section 9‑22‑800. (A) Notwithstanding any contrary provision or retirement law that would otherwise limit a distributee’s election under this chapter, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(B) Notwithstanding anything in this chapter to the contrary that otherwise would limit a distributee’s election under this section, and to the extent allowed under the applicable provisions of the Internal Revenue Code and the Treasury Regulations, a distributee who is a designated beneficiary, but not a surviving spouse, spouse or former spouse alternate payee may elect, at the time and in the manner prescribed by the board, to have all or part of his benefit that qualifies as an eligible rollover distribution paid in a direct trustee‑to‑trustee transfer to an eligible retirement plan that is an individual retirement plan described in clause (i) or (ii) of Internal Revenue Code Section 402(c)(8)(B). If such a transfer is made:

(1) the transfer must be treated as an eligible distribution;

(2) the individual retirement plan must be treated as an inherited individual retirement account or individual retirement annuity within the meaning of Internal Revenue Code Section 408(d)(3)(C); and

(3) Internal Revenue Code Section 401(a)(9)(B) other than clause (iv) thereof shall apply to such individual retirement plan.

(C) A ‘designated beneficiary’ is an individual who is designated as a beneficiary under this chapter and is the designated beneficiary under Internal Revenue Code Section 401(a)(9) and Section 1.401(a)(9)‑1, Q&A‑4 of the Treasury Regulations. An estate or revocable trust is not considered to be a designated beneficiary for purposes of Internal Revenue Code Section 401(a)(9).

(D)(1) An ‘eligible rollover distribution’ is any distribution of all or any portion of the balance to the credit of the distributee, including a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a domestic relations order, as defined in Internal Revenue Code Section 414(p),

except that an eligible rollover distribution does not include:

(a) any distribution that is one of a series of substantially equal periodic payments made not less frequently than annually for the life or the life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee’s designated beneficiary, or for a specified period of ten years or more;

(b) any distribution to the extent such distribution is required under Internal Revenue Code Section 401(a)(9); and

(c) any hardship distribution.

(2) A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after‑tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Internal Revenue Code Section 408(a) or (b), or in a direct trustee‑to‑trustee rollover to a qualified trust under Internal Revenue Code Section 401(a) or 403(a) that is part of a defined contribution or defined benefit plan, or to an annuity contract described in Internal Revenue Code Section 403(b), so long as such trust or annuity contract separately accounts for amounts transferred, including separate accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not includible. An eligible rollover distribution also shall mean a qualified rollover contribution to a Roth IRA within the meaning of Internal Revenue Code Section 408A.

(E) An ‘eligible retirement plan’ is:

(1) a plan eligible under Internal Revenue Code Section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that agrees to separately account for amounts transferred into the plan from the system;

(2) an individual retirement account described in Internal Revenue Code Section 408(a);

(3) an individual retirement annuity described in Internal Revenue Code Section 408(b);

(4) an annuity plan described in Internal Revenue Code Section 403(a);

(5) an annuity contract described in Internal Revenue Code Section 403(b);

(6) a qualified trust described in Internal Revenue Code Section 401(a) that accepts the distributee’s eligible rollover distribution; or

(7) a Roth IRA described in Internal Revenue Code Section 408A.

(F) A ‘distributee’ includes an employee or former employee. It also includes the employee’s or former employee’s surviving spouse and the employee’s or former employee’s spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Internal Revenue Code Section 414(p). It further includes a nonspouse beneficiary who is a designated beneficiary as defined by Internal Revenue Code Section 401(a)(9)(E). However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution and the account or annuity will be treated as an ‘inherited’ individual retirement account or annuity.

(G) A ‘direct rollover’ is a payment by the system to the eligible retirement plan specified by the distributee.

Section 9‑22‑810. All employee and employer annuities must be payable in equal monthly installments.

Section 9‑22‑820. (A) If a member ceases to be a teacher or employee except by death or retirement, then 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 eight or more years of such service 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 this chapter. 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, then 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.

(B) Upon the death of a member who did not select a survivor option or who selected a survivor option and the member’s designated beneficiary predeceased the member, a lump sum amount must be paid to the member’s designated beneficiary or the member’s estate if total member contributions and accrued interest at the member’s retirement exceed the sum of the retirement allowances paid to the member. Upon the death of a designated beneficiary selected under a survivor option, a lump sum amount must be paid to the beneficiary’s estate if total member contributions and accrued interest at the member’s retirement exceed the sum of the retirement allowances paid to the member and the member’s beneficiary. The lump sum payment must be the total member contributions and accrued interest at retirement less the sum of the retirement allowances paid to the member or in the case of a survivor option, the total member contributions and accrued interest at retirement less the sum of the retirement allowances paid to the member and the member’s designated beneficiary. An active contributing member making the nomination provided under this section also may name contingent beneficiaries in the same manner that beneficiaries are named. A contingent beneficiary has no rights under this chapter unless all beneficiaries nominated by the member have predeceased the member and the member’s death occurs while in service. In this instance, a contingent beneficiary is considered the member’s beneficiary for purposes of this chapter.

Section 9‑22‑830. (A)(1) 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:

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

(b) dies while in service; and

(c) 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.

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

(B) A person otherwise eligible under subsection (A) to elect to receive an allowance but who has received a refund of the member’s accumulated contributions, upon repayment of the refund to the system in a single sum, may make the election provided for in subsection (A), and monthly payments must be made to the person beginning from the time of the repayment of the accumulated contributions to the system.

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

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

Section 9‑22‑840. (A) The system will pay all benefits in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirement in Section 401(a)(9)(G), and the applicable Treasury Regulations and Internal Revenue Service Rulings and other interpretations issued thereunder, including Treasury Regulations Sections 1.401(a)(9)‑2 through 1.401(a)(9)‑9. The provisions of this section shall override any distribution options that are inconsistent with Section 401(a)(9) to the extent that those distribution options are not grandfathered under Treasury Regulation Section 1.401(a)(9)‑6, Q&A‑16.

(B) Each member’s entire benefit must be distributed to the member, beginning no later than the required beginning date, over the member’s lifetime or the joint lives of the member and a designated beneficiary, or over a period not extending beyond the member’s life expectancy or the joint life expectancies of the member and a designated beneficiary. If a member fails to apply for retirement benefits by his required beginning date, the board shall begin distributing the benefit as required by this chapter.

(1) For purposes of this section, the ‘required beginning date’ is April first of the calendar year after the later of the following:

(a) the calendar year in which the member reaches age seventy and one‑half years of age; or

(b) the calendar year in which the member retires.

(2) For purposes of this section, a ‘designated beneficiary’ means any individual designated as a cobeneficiary by the member under this chapter. If the member designates a trust as a cobeneficiary, the individual beneficiaries of the trust must be treated as designated beneficiaries if the trust satisfies the requirement set forth in Treasury Regulation Section 1.401(a)(9)‑3.

(3) Payment of retirement benefits, for those members who are eligible to receive retirement benefits and who have not applied for such pursuant to the provisions of this chapter, and who continue membership after attaining seventy and one‑half years of age, shall commence on the effective date of retirement.

(C) If a retired member dies after benefit payments have begun or are required to begin under subsection (B), any survivor benefits must be distributed at least as rapidly as under the distribution method being used at the member’s death.

(D) If an active or inactive member dies before benefit payments have begun or are required to begin under subsection (B), any death benefits must be distributed by December thirty‑first of the calendar year that contains the fifth anniversary of the member’s death. However, the five‑year rule shall not apply to any death benefit that is payable to a member’s designated beneficiary, if:

(1) the benefit is distributed over the designated beneficiary’s lifetime or over a period not extending beyond the designated beneficiary’s life expectancy; and

(2) the distributions begin no later than December thirty‑first of the calendar year that contains the first anniversary of the member’s death.

Section 9‑22‑850. (A) If a change or error in the records results in a member or beneficiary receiving from the system more or less than he would have been entitled to receive had the records been correct, the board shall correct the error and, so far as practicable, adjust the payment so that the actuarial equivalent of the benefit to which the member or beneficiary was correctly entitled is paid.

(B)(1) The system must correct its records relating to a member upon:

(a) written certification from the employer that the employer’s records contained an error that affected the enrollment of the member; and

(b) a showing to the system that all other related records and accounts have been corrected and adjusted to correspond to the change requested of the system.

(2) A correction of the records of the system takes effect only upon payment by the employer and employee to the system of costs as determined by the system.

(C) An employer’s request to correct a member’s record pursuant to subsection (B) must be made within two years of the commission of the error by the employer.

Section 9‑22‑860. Except as provided in Section 9‑18‑10, and related sections, Article 11, Chapter 17, Title 63 and Section 8‑1‑115 and subject to the doctrine of constructive trust ex maleficio, and subject to income tax levies imposed pursuant to state or federal law and distributions made pursuant to the federal Pension Protection Act of 2006, the right of a person to an annuity or a retirement allowance or to the return of contributions, an annuity, or retirement allowance itself, any optional benefit, or any other right accrued or accruing to any person under the provisions of this chapter, and the monies of the system created under the provisions of this chapter or any private retirement system operated by a municipality, are exempted from any state or municipal tax, except the taxes imposed pursuant to Chapters 6 and 16 of Title 12, and exempted from levy and sale, garnishment, attachment, or any other process and are unassignable except as specifically otherwise provided in this chapter. This section does not apply to any authorized deduction from a retirement allowance.

Section 9‑22‑870. All agreements or contracts with members of the system pursuant to any of the provisions of this chapter are deemed solely obligations of the retirement system and the full faith and credit of this State and of its departments, institutions and political subdivisions and of any other employer is not, and shall not be, pledged or obligated beyond the amounts which may be annually appropriated by such employers in the annual appropriations act, county appropriation acts and other periodic appropriations for the purposes of this chapter. In case of termination of the system, or in the event of discontinuance of contributions, the rights of all members of the system to benefits accrued to the date of such termination or discontinuance of contributions, to the extent then funded, are nonforfeitable.

Section 9‑22‑880. (A) There is created the Preretirement Death Benefit Program for all employers under the system except counties, municipalities, other political subdivisions, and those state departments, agencies, or other institutions which pay directly to the system the total employer contributions for the participating members in their employ.

(B) The program is available to those employers exempted in the preceding subsection by written application of the employer. An application is an irrevocable commitment to participate under the program. Applications are effective July first next following the date of receipt by the system of the application.

(C)(1) Upon receipt of proof, satisfactory to the board, of the death of: (a) a contributing member in service who had completed at least one full year of membership in the system or of the death of a contributing member as a result of an injury arising out of and in the course of the performance of his duties regardless of length of membership, as of the effective date of his employer’s participation; or (b) a retired contributing member of the system, there must be paid to the person he nominated for the refund of his accumulated contributions, unless he has nominated a different beneficiary by written designation filed with the board, in the event of his death pursuant to Section 9‑22‑820, if the person is living at the time of the member’s death, otherwise to the member’s estate, a death benefit equal to the annual earnable compensation of the member at the time his death occurs. The death benefit is payable apart and separate from the payment of the member’s accumulated contributions on his death pursuant to Section 9‑22‑820 or 9‑22‑830.

(2) For purposes of this subsection, a member described in item (1)(a) is considered to be in service at the date of his death if the last day the member was employed in a continuous, regular pay status, while earning regular or unreduced wages and regular or unreduced retirement service credit, whether the member was physically working on that day or taking continuous accrued annual leave or sick leave while receiving a full salary, occurred not more than ninety days before the date of his death and he has not retired.

(3) For purposes of this subsection, a member described in item (1)(b) is considered a retired contributing member if the last day the member was employed in a continuous, regular pay status, while earning regular or unreduced wages and paying retirement system contributions whether the member was physically working on that day or taking continuous accrued annual leave or sick leave while receiving a full salary, occurred not more than ninety days before the date of his death.

(D) Upon the death of a retired member, 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‑eight, and six thousand dollars if the retired member had at least twenty‑eight years of creditable service at the time of retirement, if the retired member’s most recent employer, before the member’s retirement, is covered by the preretirement Death Benefit Program.

Section 9‑22‑890. (A) The Death Benefit Plan for members of the South Carolina Retirement System, hereinafter referred to as the ‘plan’, is established for the purpose of providing for the payment of the benefits provided by Section 9‑22‑880.

(B) A separate fund, to be known as the Death Benefit Plan Reserve Fund, is established within the South Carolina Shared‑Risk Defined Benefit Plan, to be held in trust by the board. The fund shall consist of all contributions paid by the employers and other monies received and paid into the fund for death benefit purposes, and of the investment earnings on these monies, and must be used only to pay the death benefits prescribed by subsection (C). Concurrent with the determination of the initial liability of the plan for the balance of the fiscal year on and after the effective date of the benefit, for the death benefit provided and to be paid for pursuant to this plan, there must be segregated and transferred from the Employer Annuity Accumulation Fund of the retirement system to the reserve fund created by this section the amounts determined by the actuary to be necessary to pay anticipated death benefit claims. Subsequent segregations and transfers must be made as required to pay the death benefit prescribed by subsection (C) from the reserve fund provided by this section.

(C) At the death of a member who has met the eligibility requirements pursuant to Section 9‑22‑880, a benefit equal to the death benefit pursuant to Section 9‑22‑880 must be paid to the person nominated by the member in accordance with the provisions of Section 9‑22‑880 or to the member’s estate.

(D) The actuary shall investigate the claim experience of the plan as provided by Section 9‑22‑230. On the basis of these investigations and upon the recommendation of the actuary, the board shall certify the contribution rates necessary to fund the death benefit authorized to be paid by the plan. As soon as practicable after the close of each fiscal year, the board shall determine the contribution which the employers participating in the plan are required to pay into the reserve fund to discharge the obligations of the plan for the past fiscal year.

(E) Each qualified member of the retirement system is to be covered as provided in this section.

Section 9‑22‑900. (A)(1) A retired member of the system who has been retired for at least thirty consecutive calendar days may be hired and return to employment covered by this system or any other system provided in this title and earn up to ten thousand dollars without affecting the monthly retirement allowance the member is receiving from the system. If the retired member continues in service after earning ten thousand dollars in a calendar year, the member’s allowance must be discontinued during his period of service in the remainder of the calendar year. If the employment continues for at least forty‑eight consecutive months, the provisions of Section 9‑22‑760 apply. If a retired member of the system returns to employment covered by this system or any other system provided in this title sooner than thirty days after retirement, the member’s retirement allowance is suspended while the member remains employed by the participating employer. If an employer fails to notify the system of the engagement of a retired member to perform services, the employer shall reimburse the system for all benefits wrongly paid to the retired member.

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

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

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

(B) An employer shall pay to the system the employer contribution for active members prescribed by law with respect to any retired member engaged to perform services for the employer, regardless of whether the retired member is a full‑time or part‑time employee or a temporary or permanent employee. 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.

(C) A retired member shall pay to the system the employee contribution as if the member were an active contributing member if an employer participating in the system employs the retired member. The retired member does not accrue additional service credit in the system by reason of the contributions required pursuant to this subsection and subsection (B).

(D) A retired member of the South Carolina Shared‑Risk Defined Benefit Plan who is not a member of the Police Officers’ Retirement System, but is employed in a position that would otherwise be covered by the Police Officers’ Retirement System, shall not join the Police Officers’ Retirement System but, notwithstanding any other provision of law, that member is deemed a retired contributing member of the South Carolina Shared‑Risk Defined Benefit Plan and shall remit the employee contributions required under subsection (C) to the South Carolina Shared‑Risk Defined Benefit Plan and the employer shall remit to the South Carolina Shared‑Risk Defined Benefit Plan the employer contribution required by subsection (B). An employer who hires a retiree of the South Carolina Shared‑Risk Defined Benefit Plan pursuant to this subsection shall elect to participate as an employer in the South Carolina Shared‑Risk Defined Benefit Plan.

Section 9‑22‑910. (A) A retired member of the system may return to employment covered by the system without affecting the monthly retirement allowance he is receiving from the system if the retired member is a certified teacher and is employed by a school district to teach in the classroom in his area of certification in a critical academic need area or geographic need area as defined by the State Board of Education.

(B) For the provisions of this section to apply, the Department of Education must review and approve, from the documentation provided by the school district, that no qualified, nonretired member is available for employment in the position, and that the member selected for employment meets the requirements of this section. However, a school district may not consider a member of the system for employment before May thirty‑first of each year. After approval is received from the Department of Education, school districts must notify the State Board of Education of the engagement of a retired member as a teacher and the department must notify the State Retirement System of their exemption from the earnings limitation. If the employing district fails to notify the department of the engagement of a retired member as a teacher, the district shall reimburse the system for all benefits wrongly paid to the retired member.

(C) A school district shall pay to the system the employer contribution for active members prescribed by law with respect to any retired member engaged to perform services for the district, regardless of whether the retired member is a full‑time or part‑time employee, a temporary or permanent employee. If a district which 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 district by the State.

(D) Any retired certified school teacher or certified employee may be employed in a school or school district which is in a critical geographic need area or has received a ‘below average’ or ‘unsatisfactory’ academic performance rating pursuant to the Education Accountability Act without penalty from the South Carolina Shared‑Risk Defined Benefit Plan.

Section 9‑22‑920. The retirement allowance received by retirees and their surviving annuitants must be increased annually 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.

Section 9‑22‑930. There must be paid to the system, and credited to the postretirement increase special fund, contributions by the employers in an amount equal to two‑tenths of one percent of the earnable compensation of each member employed by each employer. In addition, the board, on the recommendation of the actuary, shall transfer a portion of the monies as are received pursuant to Section 9‑22‑620 that are available due to actuarial gains in the system if the transfers do not adversely affect the funding status of the system.

Section 9‑22‑940. (A) A member who has at least twenty‑five years of creditable service may elect to receive up to three years of additional service credit as though the additional service credit were rendered by the member as an employee or member upon paying into the member’s retirement system, during the ensuing number of years the member wishes to purchase in the manner the Comptroller General shall direct, the employer and employee contributions that would be due for the position that the member presently holds at the salary level in effect during those years. If the position is consolidated or eliminated after the member’s retirement, the member shall pay the employer and employee contributions during the remaining required years at a level equal to what these contributions were for the position before its consolidation or elimination. The member also shall pay the employer and employee cost for health and dental insurance in effect during the ensuing years the member wishes to purchase. The additional service credit qualifies the member for retirement and the member must terminate employment within ninety days after electing the option provided by this section. The salary level of the position the member presently holds, during the ensuing years the member pays the employer and employee contributions, is attributable to the member for purposes of determining the member’s average final compensation.

(B) The retirement benefits of the member shall not commence until the time benefits would have been paid when the member had completed twenty‑eight years of service.

(C) The option allowed by this section cannot be exercised if the member has purchased nonqualified service pursuant to Section 9‑22‑630(E).

Section 9‑22‑950. Notwithstanding any other provision of law, except as provided below, retirees and beneficiaries under the State Retirement Systems receiving Medicaid (Title XIX) sponsored nursing home care as of June thirtieth of the prior fiscal year shall receive no increase in retirement benefits during the current fiscal year. However, a retired employee affected by the above prohibition may receive the scheduled increase if he is discharged from the nursing home and does not require admission to a hospital or nursing home within six months. The Department of Health and Human Services, the Department of Social Services, and the State Retirement Systems must share the information needed to implement this section.

ARTICLE 10

Supplemental Allowances for Certain Members

Section 9‑22‑1000. The annual compensation of a member taken into account for determining all benefits provided under this retirement system is subject to the limitations set forth in Section 401(a)(17) of the Internal Revenue Code of 1986 and any regulations promulgated thereunder, as adjusted for retirement allowance adjustments in accordance with Section 401(a)(17)(B) of the Internal Revenue Code. Annual compensation means compensation during the plan year or such other consecutive twelve‑month period over which compensation is otherwise determined under the retirement system referred to as the determination period. The retirement allowance adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

Section 9‑22‑1010. Notwithstanding any provision in this chapter to the contrary, contributions, benefits, and service credit with respect to qualified military service must be provided in accordance with Section 414(u) of the Internal Revenue Code.

Section 9‑22‑1020. (A) Member contributions paid to, and retirement benefits paid from, the system may not exceed the annual limits on contributions and benefits, respectively, allowed by Internal Revenue Code Section 415. For purposes of applying these limits, the definition of compensation where applicable must be compensation as defined in Treasury Regulation Section 1.415(c)‑2(d)(3), or successor regulation; provided, however, that the definition of compensation will exclude member contributions picked up under Internal Revenue Code Section 414(h)(2), and compensation shall include the amount of any elective deferrals, as defined in Internal Revenue Code Section 402(g)(3), and any amount contributed or deferred by the employer at the election of the member and which is not includible in the gross income of the member by reason of Internal Revenue Code Section 125, 132(f)(4) or 457.

(B) For purposes of applying the limits under Internal Revenue Code Section 415(b), referred to as ‘limit’, the following shall apply:

(1) With respect to a member who does not receive a portion of his annual benefit in a lump sum:

(a) a member’s applicable limit must be applied to the member’s annual benefit in the first limitation year without regard to any retirement allowance adjustments pursuant to Section 9‑22‑920;

(b) to the extent the member’s annual benefit equals or exceeds the limit, the member shall no longer be eligible for retirement allowance adjustments until such time as the benefit plus the accumulated increases are less than the limit;

(c) thereafter, in a subsequent limitation year, the member’s annual benefit including any retirement allowance adjustments applicable pursuant to Section 9‑22‑920 must be tested under the then applicable benefit limit including any adjustment to the Internal Revenue Code Section 415(b)(1)(A) dollar limit under Internal Revenue Code Section 415(d) and the regulations.

(2) With respect to a member who receives a portion of the member’s annual benefit in a lump sum, a member’s applicable limit must be applied taking into consideration retirement allowance adjustments under Section 9‑22‑920 as required by Internal Revenue Code Section 415(b) and applicable Treasury Regulations.

(3) In no event shall a member’s annual benefit payable under the system in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Internal Revenue Code Section 415(d) and the regulations thereunder. If the form of benefit without regard to the retirement allowance adjustment feature is not a straight life or a qualified joint and survivor annuity, then the preceding sentence is applied by adjusting the form of benefit to an actuarially equivalent straight life annuity benefit that is determined using the following assumptions and that take into account the death benefits under the form of benefit:

(a) for a benefit paid in a form to which Internal Revenue Code Section 417(e)(3) does not apply, the actuarially equivalent straight life annuity benefit which is the greater of (or the reduced 415(b) limit applicable at the annuity starting date which is the lesser of when adjusted in accordance with the following assumptions):

(i) the annual amount of the straight life annuity, if any, payable to the member under the plan commencing at the same annuity starting date as the form of benefit payable to the member; or

(ii) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using:

(A) a five percent interest assumption or the applicable statutory interest assumption; and

(B) the applicable mortality table described in Treasury Regulation Section 1.417(e)‑1(d)(2) which is the mortality table specified in Revenue Ruling 2001‑62 or any subsequent revenue ruling modifying the applicable provisions of Revenue Ruling 2001‑62;

(b) for a benefit paid in a form to which Internal Revenue Code Section 417(e)(3) applies, the actuarially equivalent straight life annuity benefit which is the greatest of (or the reduced 415(b) limit applicable at the annuity starting date which is the least of when adjusted in accordance with the following assumptions):

(i) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

(ii) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using:

(A) a five and one‑half percent interest assumption or the applicable statutory interest assumption; and

(B) the applicable mortality table for the distribution under Treasury Regulation Section 1.417(e)‑1(d)(2) which is the mortality table specified in Revenue Ruling 2001‑62 or any subsequent revenue ruling modifying the applicable provisions of Revenue Ruling 2001‑62; or

(iii) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using:

(A) the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)‑1(d)(3) which is the thirty‑year treasury rate in effect for the first day of the plan year with a one‑year stabilization period; and

(B) the applicable mortality table for the distribution under Treasury Regulation Section 1.417(e)‑1(d)(2), which is the mortality table specified in Revenue Ruling 2001‑62 or any subsequent revenue ruling modifying the applicable provisions of Revenue Ruling 2001‑62, divided by 1.05; and

(4) The member’s annual benefit must be adjusted as provided by Internal Revenue Code Section 415(b)(2)(B) and related Treasury regulations by taking into consideration after‑tax contributions and rollover and transfer contributions made by the member.

(C) Notwithstanding any other provision of law to the contrary, the system may modify a request by a member to make a contribution to the system if the amount of the contribution would exceed the limits provided in Internal Revenue Code Section 415 by using the following methods:

(1) if the law requires a lump sum payment for the purchase of service credit, the board may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under Internal Revenue Code Section 415(c) or 415(n);

(2) if payment pursuant to item (1) shall not avoid a contribution in excess of the limits imposed by Internal Revenue Code Section 415(c), the system may either reduce the member’s contribution to an amount within the limits of that section or refuse the member’s contribution;

(3) if a member makes one or more contributions to purchase permissive service credit under the system, then the requirements of this section must be treated as met only if:

(a) the requirements of Internal Revenue Code Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Internal Revenue Code Section 415(b); or

(b) the requirements of Internal Revenue Code Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of Internal Revenue Code Section 415(c).

For purposes of applying subitem (a) the system will not fail to meet the reduced limit under Internal Revenue Code Section 415(b)(2)(C) solely by reason of this subsection, and for purposes of applying subitem (b) the system will not fail to meet the percentage limitation under Internal Revenue Code Section 415(c)(1)(B) solely by reason of this subsection;

(4) for purposes of this subsection, the term ‘permissive service credit’ means service credit:

(a) recognized by the system for purposes of calculating a member’s benefit under the system;

(b) which such member has not received under the system; and

(c) which such member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Permissive service credit contributions may include service credit for periods for which there is no performance of service, and, notwithstanding subitem (b), may include service credited in order to provide an increased benefit for service credit which a member is receiving under the system;

(5) the system will fail to meet the requirements of this subsection if:

(a) more than five years of nonqualified service credit are taken into account for purposes of this subsection; or

(b) any nonqualified service credit is taken into account under this subsection before the member has at least five years of participation under the system;

(6) for purposes of item (5), the term ‘nonqualified service credit’ means permissive service credit other than that allowed with respect to:

(a) service including parental, medical, sabbatical, and similar leave, as an employee of the government of the United States, any state or political subdivision, or any agency or instrumentality of any of the foregoing other than military service or service for credit which was obtained as a result of a repayment described in Internal Revenue Code Section 415(k)(3);

(b) service including parental, medical, sabbatical, and similar leave, as an employee other than as an employee described in subitem (a), of an educational organization described in Internal Revenue Code Section 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education through grade twelve, or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed; provided, however, that in the case of a private or sectarian school, only teaching service will not be treated as nonqualified service;

(c) service as an employee of an association of employees who are described in subitem (a); or

(d) military service, other than qualified military service under Internal Revenue Code Section 414(u), recognized by such governmental plan.

In the case of service described in subitem (a), (b), or (c), such service must be nonqualified service if recognition of such service would cause a member to receive a retirement benefit for the same service under more than one plan;

(7) in the case of a trustee‑to‑trustee transfer, to which Internal Revenue Code Section 403(b)(13)(A) or 457(e)(17)(A) applies, without regard to whether the transfer is made between plans maintained by the same employer:

(a) the limitations of item (5) shall not apply in determining whether the transfer is for the purchase of permissive service credit; and

(b) the distribution rules applicable under federal law to the system will apply to such amounts and any benefits attributable to such amounts.”

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

“CHAPTER 24

South Carolina WealthBuilder‑Primary Retirement Savings Plan

Section 9‑24‑5. The intent of the General Assembly is for the State of South Carolina WealthBuilder‑Primary Retirement Savings Plan (WPRS) to be the primary retirement plan for participants of the state’s retirement system. The objective of the WPRS is to provide participants with a path towards having a secure retirement through a focus on lifetime retirement income in order to maintain a participant’s standard of living, following a full career of employment.

Section 9‑24‑10. As used in this chapter:

(1) ‘Employer’ means:

(a) a school district that receives funding from the State from the annual appropriation to the Department of Education for Aid to School Districts‑Employer Contributions in the annual general appropriations act;

(b) a four‑year and postgraduate institution of higher learning supported by and under the control of the State;

(c) a technical college supported by and under the control of the State;

(d) the State or any of its departments, agencies, bureaus, commissions, and institutions, provided that such entity does not meet the definition of item (1)(a), (b), or (c) of this section;

(e) a county board of education, a district board of trustees, the board of trustees or other managing board of a state‑supported college or educational institution, or any other agency of this State by which a teacher or employee is paid;

(f) a county, municipality, or other political subdivision of the State, or an agency or department of any of these, which has been granted admittance to the South Carolina Retirement System pursuant to Section 9‑1‑470, a service organization referred to in Section 9‑24‑10(3)(a)(v), an alcohol and drug abuse planning agency authorized to receive funds pursuant to Section 61‑12‑20, and a local council on aging or other governmental agency providing aging services funded by the Office on Aging, Office of the Lieutenant Governor;

(g) except for the following entities that, before July 1, 2020, were granted admittance to the South Carolina Retirement System and have exercised an option pursuant to Section 9‑1‑5(B) to not participate in the WPRS, a nonprofit corporation created under the provisions of Chapter 36, Title 33 for the purpose of supplying water and sewer, a hospital that has been granted admittance to the South Carolina Retirement System under the provisions of Section 9‑1‑580, an employer that has been granted admittance pursuant to Chapter 23, Title 6, and any other third‑party employer not described herein as defined in Section 9‑1‑5(B).

(2) ‘Eligible employee’ means:

(a) a person hired on or after July 1, 2004, and before July 1, 2022, by an employer as defined in Section 9‑24‑10(1) to fill a temporary, permanent part‑time, or permanent full‑time position; however, an eligible employee who exercises an option to not participate in the South Carolina Retirement System under Section 9‑1‑550 is not eligible to participate in the WPRS; or

(b) an individual first elected to serve in the General Assembly at or after the general election of 2012.

(3)(a) ‘Primary Employee’ means:

(i) a person hired, appointed, or elected after June 30, 2022, by an employer as defined in Section 9‑24‑10(1) to fill a temporary, permanent part‑time, or permanent full‑time position;

(ii) the president, dean, professor, or teacher, or any other person employed in any college, university, or educational institution of higher learning supported by and under the control of the State;

(iii) an employee, agent, or officer of a county, municipality, or school district, or an agency or department of any of these, which has been granted admittance to the South Carolina Retirement System pursuant to Section 9‑1‑470, to the extent the employee, agent, or officer is compensated for services from public funds;

(iv) an employee of the extension service and any other employee a part of whose salary or wage is paid by the federal government if the federal funds from which the salary or wage is paid before disbursement become state funds;

(v) an employee of a service organization, the membership of which is composed only of persons eligible to be teachers or employees as defined by this section, if the compensation received by the employees of the service organization is provided from monies paid by the members as dues or otherwise, or from funds derived from public sources and if the employee contributions prescribed by this title are paid from the funds of the service organization, or any nonprofit corporation created under the provisions of Chapter 36, Title 33, for the purpose of supplying water and sewer;

(vi) an employee of an alcohol and drug abuse planning agency authorized to receive funds pursuant to Section 61‑12‑20;

(vii) an employee of a local council on aging or other governmental agency providing aging services funded by the Office on Aging, Office of the Lieutenant Governor;

(viii) an employee of a hospital that has been granted admittance to the South Carolina Retirement System pursuant to Section 9‑1‑580, and an employee of an employer that has been granted admittance pursuant to Chapter 23, Title 6.

(b) ‘Employee’ does not include supreme and circuit court judges, any person whose services are remunerated only by per diem payments, or any person employed by a school, college, or university at which the person is enrolled as a student or otherwise regularly attending classes for academic credit unless the person is employed as a school bus driver and is paid by the same school district in which the person is enrolled in school. In determining student status, the system may consider the guidelines of the Social Security Administration regarding student services and other criteria the system uniformly prescribes.

(c) In all cases of doubt, the board shall determine whether any person is a teacher or employee for the purposes of the system.

(4) ‘Participant’ means an eligible employee or primary employee who participates in the WPRS provided by this chapter.

(5) ‘Open enrollment period’ means the period from January first to March first of each year.

Section 9‑24‑20**.** (A) The South Carolina Retirement System shall establish the WPRS, a defined contribution plan, for eligible employees defined in Section 9‑24‑10(2) and primary employees defined in Section 9‑24‑10(3)(a). All primary employees, except those to whom membership is optional under this subsection, have become or will become members of the system as a condition of their employment.

The following retirement and death benefit payment options may be provided for a participant in the WPRS: annuities, lump‑sum distributions, partial distributions, or periodic withdrawals, whether through individual annuity contracts or mutual funds or individual certificates issued for group annuity contracts, fixed, or variable in nature, or a combination of them. Eligibility is determined solely by the South Carolina Retirement System.

(B) Any teacher or employee employed in connection with the public school pupil transportation system or in connection with any program or activity defined by the board as being of a nonpermanent nature may exercise an option not to become a member of the WPRS, if the option is exercised within thirty days after entering upon the discharge of his duties in such employment.

(C) Day laborers may exercise an option not to become members of the WPRS, provided they file notice within thirty days after beginning work as such day laborers.

(D)(1) Any persons employed by a hospital, which is an employer under the system by application, in the capacity of a physician, nursing service personnel, technicians, housekeeping personnel, dietary personnel, and laundry personnel may elect not to become members of the WPRS, if this option is exercised within thirty days after they enter upon the discharge of their duties. The option provided for in this section is irrevocable.

(2) If for any reason, a determination is made that a person who exercised the option provided for in item (1) is entitled to any benefit provided pursuant to this title, the cost to establish service credit must be calculated pursuant to Section 9‑22‑630(A). This calculation must be based on the person’s current salary or career highest fiscal year salary for any period of time the person was employed in a position that otherwise would have been covered by membership in the system, regardless of whether the person requests to purchase all of the eligible service credit. The calculated cost must be paid solely by the person’s employer, the person, or any combination of these.

(3) For purposes of this subsection, ‘physician’ means a person who is licensed to practice medicine or osteopathy in this State in accordance with Chapter 47, Title 40.

Section 9‑24‑30. (A) The South Carolina Retirement System shall provide for the administration of the WPRS under this chapter. The Director of the South Carolina Retirement System acting on behalf of the Board of Directors of the South Carolina Public Employee Benefit Authority shall designate no fewer than one, but no more than six companies to provide annuity contracts, mutual fund accounts, or similar investment products offered through state or national banking institutions, or a combination of them, under the program. Notwithstanding the provisions of the preceding sentence or other sections of this chapter, any such financial services contract in effect as of July 1, 2022, may not be terminated before the expiration of the contract unless provided for under the contract terms. 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 a range of suitable investment options;

(6) the ability and experience of the designated companies to provide investment services to public sector plans;

(7) the capacity of the designated companies to provide fully bundled retirement plan investments, plan administration, and planning and education services;

(8) the capacity of the designated companies to offer target‑date funds or an equivalent retirement fund that professionally rebalances the participant’s portfolio with an income‑in retirement targeted objective; and

(9) fees and total costs.

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

(B) Subject to the provisions contained in this chapter, the Retirement System Investment Commission (commission) is the primary vendor and provides the default investment plan for the WPRS. All participants enrolled before July 1, 2022, are entitled to remain with or otherwise select the default investment plan of the commission for their account. If no selection is made, the participant’s account is assigned to the commission’s default investment plan.

(C) The commission may exclude participants that enroll in or elect to transfer from another state retirement plan to the WPRS after June 30, 2022. In this event, PEBA shall select a default vendor using the selection criteria established in subsection (A) and work with the vendor to identify a default investment plan for new member enrollment.

(1) The default vendor, if other than the commission, shall offer a minimum of five, but no more than fifteen, predetermined professionally managed portfolio options for participants, which must include at least one of each of the following asset allocation portfolio types:

(a) accumulation focused;

(b) income focused; and

(c) capital preservation focused.

(2) PEBA shall select one of the default vendor’s portfolios as the default investment plan based on the following considerations:

(a) the capacity of the strategy to produce income in retirement;

(b) the relative risk in the asset allocation of the strategy;

(c) the capacity for the strategy to be understood by participants; and

(d) the fees and associated costs of the strategy.

(D) Beginning January 1, 2023, no vendor of the WPRS, except for the default vendor, may be granted a new or extended contract with PEBA to provide services for a term greater than five years. The default vendor may be granted a contract term of up to eight years. PEBA shall evaluate any bid to provide financial services to WPRS participants based on the following considerations:

(1) the financial stability of the company and the ability of the company to provide the contracted rights and benefits to the participants;

(2) the cost of the investments, plan administration and services to the participants;

(3) the experience of the company in providing defined contribution retirement plans in lieu of defined benefit plan participation to public employees;

(4) the experience of the company in paying retirement income to public employees; and

(5) the experience of the company in providing plan education, counseling and advice to participants in public employee retirement plans that are offered in lieu of state‑defined benefit plan participation.

(E) Beginning January 1, 2023, PEBA shall ensure that at least one vendor offers fixed rate and variable annuities.

(F) All vendors shall provide planning services for participants to explain how the accumulation of their account balance is progressing relative to their retirement income goals. Vendors also shall provide an explanation to participants regarding the coordination between income that may be generated from their WPRS and Social Security retirement benefits.

(G) The commission, while acting as the default investment vendor for the WPRS, is exempt from the participant education and rebid requirements of this chapter.

(H) Nothing in this chapter may be construed to mean that selection of a default investment plan offered by the commission entitles a primary participant, in and of itself, to Class Three membership or benefits.

(I) For purposes of this chapter, the duties, obligations, authorizations, and privileges of the commission under Chapter 9 of this title apply.

Section 9‑24‑40. (A) All primary employees may elect to join the South Carolina Shared‑Risk Defined Benefit Plan pursuant to Chapter 22 within sixty days after entry into service. If an employee fails to make the initial election within the required time, the employee is enrolled in the WPRS effective as of the employee’s entry date into service. An election made pursuant to this section must be made in writing and filed with the retirement system and the appropriate officer of the employee’s participating employer and is effective on the date of employment. A WPRS participant who accepts an additional concurrent position with an employer participating in the South Carolina Retirement System or the South Carolina Shared‑Risk Defined Benefit Plan must enroll in the WPRS for the second position if the second position is eligible to participate in the WPRS. Also, a member of the South Carolina Retirement System or the South Carolina Shared‑Risk Defined Benefit Plan who accepts an additional concurrent position with an employer participating in the South Carolina Retirement System must enroll in the South Carolina Retirement System with respect to that position. An eligible employee or primary employee electing to participate in the WPRS under this chapter assumes all investment risk. The election to participate in the WPRS is irrevocable except as set forth in subsections (B), (C), (D) and (E).

(B) A WPRS participant that is a primary employee with an initial enrollment date after June 30, 2022, may irrevocably elect to join the South Carolina Shared‑Risk Defined Benefit Plan during any open enrollment period after the first annual anniversary but before the fifth annual anniversary of the person’s initial enrollment in the WPRS. The WPRS participant shall become a member of the South Carolina Shared‑Risk Defined Benefit Plan effective on the first of April following the participant’s election to join the South Carolina Shared‑Risk Defined Benefit Plan under this subsection.

(C) A WPRS participant with an initial enrollment date before July 1, 2020, may during any open enrollment period after the first annual anniversary but before the fifth annual anniversary of the person’s initial enrollment in the State Optional Retirement Program (ORP), irrevocably elect to join the South Carolina Retirement System, if such election is made by March 1, 2022, or the South Carolina Shared‑Risk Defined Benefit Plan, if such election is made after December 30, 2022. The WPRS participant shall become a member of the South Carolina Retirement System or the South Carolina Shared‑Risk Defined Benefit Plan, as applicable, effective on the first of April following the participant’s election to join the South Carolina Retirement System or the South Carolina Shared‑Risk Defined Benefit Plan under this subsection. Notwithstanding the aforementioned, a WPRS participant with an initial enrollment date before July 1, 2022, may at any time before July 1, 2023, elect to join the South Carolina Retirement System or the South Carolina Shared‑Risk Defined Benefit Plan. For purposes of this subsection, the date of initial enrollment in the WPRS for employees who previously participated in the Optional Retirement Program for Teachers and School Administrators or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Learning is the date of initial enrollment in these programs.

(D) An eligible employee with less than fifteen years of service on July 1, 2022, may elect to join the WPRS if such election is made before July 1, 2023. For vested Class Two and Class Three members of the South Carolina Retirement System as described pursuant to Section 9‑1‑1510, if an election is made to join the WPRS under this provision, the amount credited to the eligible employee’s new WPRS account is equal to the lesser of the actuarily accrued liability value for the member’s accumulated benefit, discounted using a seven and one‑half percent interest rate, or the total of their employee contributions plus three percent. For nonvested Class Two and Class Three members, the amount credited to the eligible employee’s new WPRS account must be equal to the total of their employee contributions to the South Carolina Retirement System plus three percent interest.

(E) The Public Employee Benefit Authority shall provide to all eligible employees or primary employees that elect to join the South Carolina Shared‑Risk Defined Benefit Plan under subsection (A), (B) or (C), before initial enrollment and once annually, thereafter, a statement containing the following information about the Shared‑Risk Defined Benefit Plan’s current fiscal year and immediately preceding three fiscal years:

(1) employee and employer contribution rates;

(2) assumed rate of return; and

(3) unfunded liability balance.

(F) No later than six months before the last open enrollment period before the fifth annual anniversary of a person’s enrollment in the WPRS, the Public Employee Benefit Authority shall notify, in writing, all participants of their eligibility, if applicable to switch enrollment to the Shared‑Risk Defined Benefit Plan pursuant to this section.

(G) Upon enrollment in the WPRS, participants are assigned to the default investment plan; however, participants are given sixty days to select any vendor and investment plan option under the WPRS. Participants that do not make an election within sixty days of enrollment shall remain with the default investment plan until the next period of eligibility for changing the vendor or investment plan for their account.

(H) PEBA shall ensure that participants receive regular education related to their retirement investments under the WPRS. PEBA may develop an investment education program and provide these services directly to participants, or require that WPRS vendors provide these educational services.

Section 9‑24‑50. (A) Each participant shall contribute monthly to the program a percentage rate of nine percent, expressed as a percentage of earnable compensation. After one year of service, and once a year thereafter, a participant is given the option to lower their contribution in the manner and at such time prescribed by PEBA. In no event may a participant’s contribution be less than five percent or more than fifteen percent. PEBA has the authority to automatically increase employee contribution rates by one percent at the beginning of each fiscal year; however, participants have the option to reverse any such contribution increase. PEBA may, at its discretion, cap participant contributions that are subject to automatic annual increases below fifteen percent. Participant contributions must be made by employer pick up pursuant to Section 9‑1‑1160(B) and any applicable provisions of the Internal Revenue Code of 1986. Each employer shall contribute on behalf of each participant five percent of compensation. Additionally, for each percent of earnable compensation over five percent contributed by a participant, the participant’s employer will match one hundred percent of the additional employee contribution, up to a maximum of two percent. In no event may the employer contribution exceed seven percent. Deductions must not be made from the employer contribution. Each employer shall remit to the designated companies for application to participants’ contracts or accounts, or both, an amount equal to the participant’s contribution plus the employer’s contribution in accordance with the guidelines established by the Internal Revenue Service for payroll tax remittance. The employer shall remit to the retirement system the percentage of the employee’s compensation that is the difference between the employer contribution rate allocated to member accounts in this section and the calculated employer share of normal cost for participants enrolled before July 1, 2020, in accordance with the guidelines established for remitting retirement contributions to the South Carolina Retirement System. Each employer also shall make a supplemental contribution to PEBA equal to five percent of payroll for members participating in the WPRS minus the total amount actually contributed to WPRS accounts, until the unfunded liability for the SCRS is paid off. PEBA may retain from this employer contribution an amount as determined by the director to defray any reasonable expenses incurred in performing services regarding the plan. These services may include, but are not limited to:

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

(2) ongoing investment education, where appropriate;

(3) recordkeeping; and

(4) monitoring contract compliance.

(B) Participants are not allowed to receive any in‑service withdrawals from a WPRS account for any reason.

(C) Participants are not allowed to borrow from, or against a WPRS account for any reason.

Section 9‑24‑60. Group life insurance benefits may be paid by the State for service rendered while participating in the WPRS under the same requirements set out for participants in the South Carolina Retirement System’s defined benefit plan pursuant to Section 9‑1‑1770. However, a postretirement group life insurance benefit must not be paid by the State for service rendered while participating in the WPRS. Employers shall remit the same contribution for the group life insurance benefit that employers would have contributed had the eligible employee chosen to be a member of the South Carolina Retirement System.

Section 9‑24‑70. Disability Retirement may be paid by the State for service rendered while participating in the WPRS under the same requirements set out for Class Four members in the South Carolina Shared‑Risk Defined Benefit Plan pursuant to Section 9‑22‑720. Any disability retirement allowance must be computed pursuant to Section 9‑22‑720(E), and a participant who is retired on a disability allowance shall be considered a Class Four member pursuant to Section 9‑22‑10(20)(b) for purposes of average final compensation.

Section 9‑24‑80. A primary employee participant who leaves public service may, upon written application to the system, close their account, and withdraw contributions and investment earnings associated therewith, subject to the following limitations:

(1) Contributions made in connection with creditable full‑time educational service as defined in Section 9‑22‑10(12), must vest and be credited to a participant for each one year of service as defined pursuant to Section 9‑22‑400 according to the following schedule:

(a) twenty percent after one year of service;

(b) forty percent after two years of service;

(c) sixty percent after three years of service;

(d) eighty percent after four years of service; and

(e) one hundred percent after five years of service.

(2) Contributions made in connection with creditable service other than educational service pursuant to subsection (1), must vest and be credited to a participant for each one year of service as defined pursuant to Section 9‑1‑840 according to the following schedule:

(a) fifty percent after one year of service; and

(b) one hundred percent after two years of service.

Section 9‑24‑90. A county, municipality, or other political subdivision of the State, an agency or department of them, including a school board, a service organization as defined in this chapter, and any nonprofit corporation created under the provisions of Chapter 36, Title 33, for the purpose of supplying water and sewer, in its discretion, may become an employer by applying to the board for admission to the system and by complying with the requirements and the regulations of the board.

Section 9‑24‑100. All persons who are employed by any county, municipality, or other political subdivision or agency or department of them, any eligible service organization, or any nonprofit corporation created under the provisions of Chapter 36, Title 33, for the purpose of supplying water and sewer, after the admission of the county, municipality, or other subdivision, agency, or department of them, service organization, or any nonprofit corporation created under the provisions of Chapter 36, Title 33, for the purpose of supplying water and sewer, into the system under the provisions of this section, shall become members of the system as a condition of their employment. All persons, except those permitted to exercise an option not to join, who are employed by any county, municipality, or other political subdivision or agency or department of them, by any eligible service organization, or any nonprofit corporation created under the provisions of Chapter 36, Title 33, for the purpose of supplying water and sewer, at the date of the admission of the county, municipality, or other subdivision or agency or department, or eligible service organization, or any nonprofit corporation created under the provisions of Chapter 36, Title 33, for the purpose of supplying water and sewer, into the system under the provisions of this section become members on the date of the admission, unless within a period of six months next following the admission they have filed with the board on a form prescribed by the board a notice of their election not to be covered in the membership and a duly executed waiver of all present and prospective benefits which would otherwise inure to them on account of their participation in the system.”

SECTION 4. Section 9‑1‑310 of the 1976 Code is 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, and the South Carolina Shared‑Risk Defined Benefit Plan must be funded from the interest earnings of the above systems. The allocation of the administrative costs of the systems must be made by the board and must be based upon a proration of the cost in proportion to the assets that each system bears to the total assets of all of the systems for the most recently completed fiscal year.”

SECTION 5. Section 9‑1‑1340 of the 1976 Code is amended to read:

“Section 9‑1‑1340. Except as otherwise provided in this chapter or in Chapters 8, 9, 10, ~~and~~ 11, and 22 of this title, no member of or person employed by the Retirement System Investment Commission shall have any direct interest in the gains or profits of any investment made by the commission. No commission member or employee of the commission shall, directly or indirectly, for himself or as an agent in any manner use the funds of the commission except to make such current and necessary payments as are authorized by the board or commission. Nor shall any member or employee of the commission become an endorser or surety or in any manner an obligor for monies loaned or borrowed from the commission.”

SECTION 6. Section 9‑11‑40(9) of the 1976 Code is amended to read:

“(9) As used in this item, ‘correlated system’ shall mean one or more of the following:

(a) South Carolina Retirement System;

(b) South Carolina Police Officers Retirement System;

(c) Retirement System for Members of the General Assembly of the State of South Carolina;

(d) South Carolina Shared‑Risk Defined Benefit Plan.

If a member of any correlated system ceases to occupy a position covered under the System and if, within the protective period and under such conditions as are set forth in the correlated system for continuation of membership, he accepts a position covered by another correlated system, he shall notify the Director of each System of such employment, and his membership in the first System must be continued so long as his membership in the other System continues. Service credited to the member under the provisions of the first System must be considered service credits for the purpose of determining eligibility for benefits, but not the amount thereof, under the other System. Any benefit under any one of the correlated systems must be computed solely on the basis of service and contributions credited under that System, and must be payable at such times and subject to such age and service conditions as are set forth therein, except the average final salary under either the South Carolina Retirement System, the South Carolina Shared‑Risk Defined Benefit Plan, or the Police Officers Retirement System may be used for the benefit calculation under both systems for consecutive earned service credit. A member is not eligible to receive retirement payments so long as he is employed in a position covered by the South Carolina Retirement System, the South Carolina Shared‑Risk Defined Benefit Plan, or the South Carolina Police Officers Retirement System.

A member of the South Carolina Police Officers Retirement System may transfer credited service he received under the South Carolina Retirement System or the South Carolina Shared‑Risk Defined Benefit Plan to the South Carolina Police Officers Retirement System on payment of accumulated employer and employee contributions and interest in the South Carolina Retirement System or the South Carolina Shared‑Risk Defined Benefit Plan plus five percent of current compensation for each year of service prorated for periods of less than a year.

Service transferred under this subsection that was earned in the South Carolina Retirement System or the South Carolina Shared‑Risk Defined Benefit Plan is ‘earned service’ and counts toward the required five or more years of earned service necessary for benefit eligibility. With respect to service transferred to the system under this subsection, compensation earned while participating in the South Carolina Retirement System or the South Carolina Shared‑Risk Defined Benefit Plan is not earnable compensation under the system and shall not be used in calculating a member’s average final compensation.”

SECTION 7. Section 9‑16‑10(8) of the 1976 Code is amended to read:

“(8) ‘Retirement system’ means the South Carolina Retirement System, South Carolina Shared‑Risk Defined Benefit Plan, Retirement System for Judges and Solicitors, Retirement System for Members of the General Assembly, National Guard Retirement System, and Police Officers Retirement System established pursuant to Chapters 1, 8, 9, 10, ~~and~~ 11, and 22 of this title.”

SECTION 8. Section 9‑16‑335 of the 1976 Code is amended to read:

“Section 9‑16‑335. (A)(1) For all purposes of this title except Chapter 22, 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, 2017, the assumed annual rate of return on retirement system investments is seven and one quarter percent.

~~(B)~~(2) The assumed rate of return set in subsection (A)(1) expires on July 1, 2021. A new annual rate of return must be set and made effective no later than July 1, 2021, and, every four years after, a new annual rate must be set and made effective. Before January first of each year that the assumed rate of return is due to expire, the board shall submit a proposed assumed annual rate of return for the corresponding four‑year period. The proposed assumed annual rate of return must be developed based on the recommendations of the board’s actuary and in consultation with the commission, and must be submitted to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee. If the General Assembly does not enact a joint resolution that continues or amends the assumed annual rate of return before expiration, the assumed annual rate of return developed and submitted by the board takes effect for the corresponding four‑year period until subsequent action of the General Assembly.

(B)(1) For the purposes of Chapter 22 of this title, the assumed annual rate of return on the investments of the South Carolina Shared‑Risk Defined Benefit Plan must be established pursuant to item (2), and may not exceed the lesser of six percent or 300 basis points above the three‑year average of twenty‑year Treasury yields.

(2) The assumed rate of return set forth in item (1) is effective July 1, 2022, and expires on July 1, 2024. A new annual rate of return must be set and made effective no later than July 1, 2024, and, every four years after, a new annual rate must be set and made effective. Before January first of each year that the assumed rate of return is due to expire, the board shall submit a proposed assumed annual rate of return for the corresponding four‑year period. The proposed assumed annual rate of return must be developed based on the recommendations of the board’s actuary and in consultation with the commission, may not exceed the lesser of six percent or 300 basis points above the three‑year average of twenty‑year Treasury yields, and must be submitted to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee. If the General Assembly does not enact a joint resolution that continues or amends the assumed annual rate of return before expiration, then the assumed annual rate of return developed and submitted by the board takes effect for the corresponding four‑year period until subsequent action of the General Assembly.”

SECTION 9. Chapter 20, Title 9 of the 1976 Code is repealed effective July 1, 2021.

SECTION 10. (A) The Code Commissioner is directed to change or correct all references to the State Optional Retirement Plan and State ORP to the South Carolina WealthBuilder‑Primary Retirement Savings Plan and WPRS, respectively. The Code Commissioner is directed to change and correct all references to Chapter 20, Title 9 of the 1976 Code to Chapter 24, Title 9. References to the State Optional Retirement Plan and State ORP in the 1976 Code or other provisions of law are considered to be and must be construed to mean appropriate references.

(B) All State ORP participants enrolled before July 1, 2022, become participants in the WPRS thereafter, with all assets, and the rights thereto, being transferred.

SECTION 11. This act takes effect July 1, 2020.

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