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Indicates New Matter

AMENDED

May 4, 2010

**S. 1146**

Introduced by Senator Alexander

S. Printed 5/4/10--H.

Read the first time February 24, 2010.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

State Budget and Control Board

The S.C. Retirement System reports that there is no actuarial impact to the system with the adoption of this bill.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTIONS 9‑1‑1770, AS AMENDED, 9‑1‑1775, 9‑8‑110, AS AMENDED, 9‑9‑100, AS AMENDED, 9‑11‑120, AS AMENDED, 9‑11‑125, AS AMENDED, AND 9‑11‑140, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING RESPECTIVELY TO, AMONG OTHER THINGS, LIFE INSURANCE BENEFITS PAID BENEFICIARIES OF DECEASED RETIREES OF THE SOUTH CAROLINA RETIREMENT SYSTEM, THE SOUTH CAROLINA RETIREMENT SYSTEM FOR MEMBERS OF THE GENERAL ASSEMBLY, THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS, AND THE SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM, AND BENEFITS PAID PURSUANT TO THE ACCIDENTAL DEATH BENEFIT PROGRAM OF THE SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM, SO AS TO MAINTAIN COMPLIANCE WITH THE INTERNAL REVENUE CODE OF 1986 BY PROVIDING FOR THESE BENEFITS TO BE PAID IN THE FORM OF DEATH BENEFITS RATHER THAN INSURANCE AND TO CORRECT A REFERENCE.

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

SECTION 1. Subsections (D) and (E) of Section 9‑1‑1770 of the 1976 Code, as last amended by Act 153 of 2005, are further amended to read:

“(D) ~~The board may take the action necessary to provide the death benefit under this section in the form of group life insurance upon a determination that to do so would guarantee a more favorable tax treatment of the benefit to beneficiaries to whom the benefit is payable.~~ RESERVED

(E) Upon the death of a retired member who is not a retired contributing member after December 31, 2000, there must be paid to the designated beneficiary or beneficiaries, if living at the time of the retired member’s death, otherwise to the retired member’s estate, a ~~life insurance~~ 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 ~~Group Life Insurance Program~~ preretirement death benefit program.”

SECTION 2. Section 9‑1‑1775 of the 1976 Code, as added by Act 311 of 2008, is amended to read:

“Section 9‑1‑1775. (A) The ~~Group Life Insurance~~ Death Benefit Plan for members of the South Carolina Retirement System, hereinafter referred to as the ‘plan’, is ~~hereby~~ established ~~and created,~~ for the purpose of providing ~~group life insurance~~ for the payment of the benefits provided by Section 9‑1‑1770 ~~of the laws governing said system~~.

(B) A separate fund, to be known as the ~~Group Life Insurance~~ Death Benefit Plan Reserve Fund, is ~~hereby~~ established within the South Carolina Retirement System, hereinafter referred to as the ‘retirement system’, to be held in trust by the board. The fund shall consist of all ~~premiums~~ contributions paid by the employers and other monies received and paid into the fund for ~~group term life insurance~~ death benefit purposes, and of the investment earnings ~~upon such~~ on these monies, and ~~shall~~ must be used only to pay the ~~group term life insurance~~ 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 ~~insurance~~ the benefit, for the ~~group term life insurance~~ death benefit provided and to be paid for pursuant to this plan, there ~~shall~~ must be segregated and transferred from the Employer Annuity Accumulation Fund of the retirement system to the reserve fund created by this section ~~such~~ the amounts ~~as shall be~~ determined by the actuary to be necessary to pay anticipated ~~group term life insurance~~ death benefit claims. Subsequent segregations and transfers ~~shall~~ must be made as ~~shall be~~ required to pay the ~~insurance~~ death benefit prescribed by subsection (C) from the reserve fund provided by this section.

(C) ~~In the event of~~ At the death of a member who has met the eligibility requirements set forth in Section 9‑1‑1770, ~~on or after the effective date of insurance, an amount of insurance~~ a benefit equal to the death benefit provided by Section 9‑1‑1770 ~~shall~~ must be paid to the person nominated by the member in accordance with the provisions of Section 9‑1‑1770 or to the member’s estate.

(D) The actuary shall investigate the claim experience of the plan as provided by Section 9‑1‑250. On the basis of ~~such~~ these investigations and upon the recommendation of the actuary, as provided in Section 9‑1‑1210, the board shall certify the ~~premium~~ contribution rates ~~computed to be~~ necessary to fund the ~~group term life insurance~~ 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 ~~premium~~ 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 ~~insured~~ covered as provided ~~herein~~ in this section effective commencing as of June 19, 1973.”

SECTION 3. Section 9‑8‑110 of the 1976 Code, as last amended by Act 112 of 2007, is further amended to read:

“Section 9‑8‑110. (1) Except as provided in subsections (2) and (3) of this section, upon the death of any member of the system, a lump sum amount must be paid to the persons the member nominated by written designation, filed with the board, otherwise to his estate. This amount must be equal to the amount of the member’s accumulated contributions. An active contributing member making the nomination provided under this section also may name secondary beneficiaries in the same manner that beneficiaries are named. A secondary beneficiary has no rights under this chapter unless all beneficiaries nominated by the member predecease the member and the member’s death occurs while in service. In this instance, a secondary beneficiary is considered the member’s beneficiary for purposes of this section.

(2) Unless a married member has designated a beneficiary other than his spouse in accordance with subsection (1), upon his death in service before retirement an allowance equal to one‑third of the allowance which would have been payable to him, if he was eligible to retire on his date of death notwithstanding the vesting requirement of Section 9‑8‑50(E)(1) and as if he had retired on the date of his death, must be paid to his surviving spouse until her death. This allowance is payable in lieu of the lump sum amount payable in accordance with subsection (1). Upon the death of a retired member who has not designated a beneficiary other than a spouse an allowance equal to one‑third of the allowance which would have been payable to him, must be paid to the surviving spouse until death. For purposes of this subsection, ‘retired member’ includes those former judges and solicitors who are beneficiaries pursuant to subsection (4) of Section 9‑8‑60.

(3) If a member dies while in the service of the State, whether as a judge, solicitor, or circuit public defender or otherwise, and either is not married or has designated a beneficiary other than his surviving spouse, an allowance in lieu of the lump sum provided in subsection (1) is payable to the person he nominated by written designation in accordance with subsection (1) equal to the amount which would have been payable to the person as if the deceased member had retired at the time of his death and had made an effective election under Section 9‑8‑70 nominating the person as his contingent beneficiary.

(4) Upon the death of an unmarried beneficiary who has not elected the optional form of allowance under Section 9‑8‑70, a lump sum amount ~~shall~~ must be paid to ~~such~~ the person ~~as~~ he ~~shall have~~ nominated by written designation in accordance with subsection (1), otherwise to his estate. ~~Such~~ The amount ~~shall~~ must be equal to the excess, if any, of his accumulated contributions at the time his allowance commenced over the sum of the retirement allowance payments made to him.

(5) Upon receipt of proof, satisfactory to the board, of the death of a member in service as a judge, solicitor, or circuit public defender who had completed at least one full year of credited service in the system or of the death of a member in service as a result of an injury arising out of and in the course of the performance of his duties regardless of length of membership, there must be paid to his spouse unless he has nominated a beneficiary by written designation filed with the board, 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 compensation of the member at the time his death occurs. The benefit must be payable apart and separate from the payment of the allowance, or the lump sum amount in lieu thereof, pursuant to the provisions of subsection (1), (2), or (3) of this section. A member may designate his estate to receive this death benefit in lieu of his spouse, or other beneficiary nominated in subsection (1). For purposes of this subsection, a member is considered to be in service at the date of his death if his last day of earned service credit as a judge, solicitor, or circuit public defender occurred not more than ninety days before his death and he has not retired or withdrawn contributions.

(6) ~~The Board may take such action as may be necessary to provide the death benefit under this section in the form of group life insurance upon a determination that to do so would guarantee a more favorable tax treatment of the benefit to beneficiaries to whom the benefit is payable.~~ RESERVED

(7) Upon the death of a retired member on or after July 1, 1985, 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 death benefit of one thousand dollars if the retired member had ten years of creditable service but less than twenty years, two thousand dollars if the retired member had twenty years of creditable service but less than thirty, and three thousand dollars if the retired member had at least thirty years of creditable service at the time of retirement.”

SECTION 4. Section 9‑9‑100 of the 1976 Code, as last amended by Act 139 of 1995, is further amended to read:

“Section 9‑9‑100. (1) Upon the death of a member of the system, a lump sum amount must be paid to the person the member nominated by written designation, filed with the board, otherwise to the member’s estate. This lump sum amount must be equal to the amount of the member’s accumulated contributions. An active contributing member making the nomination provided under this item 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 item and item (3) of this section, if applicable.

(2) Upon the death of a retired member a lump sum amount must be paid to the person he has last nominated by written designation, duly acknowledged and filed with the ~~Board~~ board, otherwise to his estate. The lump sum must be equal to the excess, if any, of his total accumulated contributions at the time his allowance commenced over the sum of the retirement allowance payments made to him, and to his designated beneficiary under Options 1, 2, and 3 of Section 9‑9‑70, during their lifetimes.

(3) Notwithstanding anything ~~herein~~ in this section to the contrary, if a member dies after he has attained age sixty or has completed fifteen years of creditable service and death occurs in service, the person nominated by him to receive the lump sum amount in subsection (1) above may elect to receive, in lieu of ~~such~~ that lump sum payment, an allowance for life in the same amount as if the deceased member of the ~~System~~ system had retired at the time of his death and had named ~~such~~ the person as contingent beneficiary under Option 1 of Section 9‑9‑70. ~~Any~~ A person otherwise eligible under this subsection to elect to receive an allowance who had attained age sixty‑five or after the accumulation of thirty years of creditable service or after attainment of age sixty with twenty or more years of creditable service but who has received a refund of the member’s accumulated contribution under this section may, upon repayment of the refund to the ~~System~~ system in a single sum, make the election provided ~~for~~ in this section. The monthly payments under Option 1 to ~~such~~ the person ~~shall~~ must date from the time of the repayment of the accumulated contributions to the ~~System~~ system.

(4) Upon receipt of proof, satisfactory to the board, of the death, after June 30, 1969, of a member of the system then in service as a member of the General Assembly who had completed at least one full year of membership in the system or of the death of an in‑service 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, 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, pursuant to Section 9‑9‑90, 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 lump sum amount, or the allowance in lieu of it, pursuant to subsections (1) and (3). For purposes of this subsection, a member is considered to be in service at the date of his death if his last day of earned service credit as a member of the General Assembly occurred not more than ninety days before the date of his death and he has not retired or withdrawn contributions.

~~The Board is authorized to take such action as may be necessary to provide the death benefit under this section in the form of group life insurance upon a determination that to do so would guarantee a more favorable tax treatment of the benefit to beneficiaries to whom such benefit is payable.~~

(5) Upon the death of a retired member on or after July 1, 1985, 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 death benefit of one thousand dollars if the retired member had ten years of creditable service but less than twenty years, two thousand dollars if the retired member had twenty years of creditable service but less than thirty, and three thousand dollars if the retired member had at least thirty years of creditable service at the time of retirement.”

SECTION 5. Subsections (E) and (F) of Section 9‑11‑120 of the 1976 Code, as last amended by Act 153 of 2005, are further amended to read:

“(E) ~~The board may take the action necessary to provide the death benefits under this section in the form of group life insurance upon a determination that to do so would guarantee a more favorable tax treatment of the benefit to beneficiaries to whom the benefit is payable.~~ RESERVED

(F) Upon the death of a retired member on or after July 1, 2000, there must be paid to the designated beneficiary or beneficiaries, if living at the time of the retired member’s death, otherwise to the retired member’s estate, a ~~life insurance~~ benefit of two thousand dollars if the retired member had ten years of creditable service but less than twenty years, four thousand dollars if the retired member had twenty years of creditable service but less than twenty‑five, and six thousand dollars if the retired member had at least twenty‑five years of creditable service at the time of retirement, if the retired member’s most recent employer prior to retirement is covered by the ~~Group Life Insurance Program~~ preretirement death benefit program.”

SECTION 6. Section 9‑11‑125 of the 1976 Code, as added by Act 311 of 2008, is further amended to read:

“Section 9‑11‑125. (A) The ~~Group Life Insurance~~ Death Benefit Plan for members of the South Carolina Police Officers Retirement System, hereinafter referred to as the ‘plan’, is ~~hereby~~ established ~~and created,~~ for the purpose of providing ~~group life insurance~~ for the payment of the benefits provided by Section 9‑11‑120 ~~of the laws governing said system~~.

(B) A separate fund, to be known as the ~~Group Life Insurance~~ Death Benefit Plan Reserve Fund, is ~~hereby~~ established within the South Carolina Police Officers Retirement System, hereinafter referred to as the ‘retirement system’, to be held in trust by the board. The fund shall consist of all ~~premiums~~ contributions paid by the employers and other monies received and paid into the fund for ~~group term life insurance~~ death benefit purposes, and of the investment earnings ~~upon such~~ on these monies, and ~~shall~~ must be used only to pay the ~~group term life insurance~~ 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 ~~insurance~~ the benefit, for the ~~group term life insurance~~ death benefit provided and to be paid for pursuant to this plan, there ~~shall~~ must be segregated and transferred from the Employer Annuity Accumulation Fund of the retirement system to the reserve fund created by this section ~~such~~ the amounts ~~as shall be~~ determined by the actuary to be necessary to pay anticipated ~~group term life insurance~~ death benefit claims. Subsequent segregations and transfers ~~shall~~ must be made as ~~shall be~~ required to pay the ~~insurance~~ benefit prescribed by subsection (C) from the reserve fund provided by this section.

(C) ~~In the event of~~ At the death of a member who has met the eligibility requirements set forth in Section 9‑11‑120 ~~on or after the effective date of insurance, an amount of insurance~~ a benefit equal to the death benefit provided by Section 9‑11‑120 ~~shall~~ must be paid to the person nominated by the member in accordance with the provisions of Section 9‑11‑120 or to the member’s estate.

(D) The actuary shall investigate the ~~claim~~ experience of the plan as provided by Section 9‑11‑30. On the basis of ~~such~~ the investigations and upon the recommendation of the actuary, as provided in Section 9‑11‑120, the board shall certify the ~~premium~~ contribution rates computed to be necessary to fund the ~~group term life insurance~~ death benefits authorized to be paid by the plan. As soon as practicable after the close of each fiscal year, the board shall determine the ~~premium~~ contribution rates 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 ~~insured~~ covered as provided ~~herein~~ in this section effective commencing as of June 19, 1973.”

SECTION 7. The first and last undesignated paragraphs of Section 9‑11‑140 of the 1976 Code, as last amended by Act 337 of 1998, are further amended respectively to read:

“Effective July 1, 1962, there ~~shall be~~ is created the Accidental Death Benefit Program, ~~which shall be~~ effective as of that date to all employers under the ~~System~~ system except counties, municipalities, and other political subdivisions, as well as those ~~State~~ state departments, agencies, or institutions which pay directly to the ~~System~~ system the total employer contributions for the participating members in their employ. The benefit paid pursuant to this Accidental Death Benefit Program must not be treated as a life insurance benefit for the beneficiary or beneficiaries set out below.”

“Benefits payable under this section must be adjusted to reflect increases in the Consumer Price Index in the manner provided in Section ~~9‑1‑1810~~ 9‑11‑310.”

SECTION 8. This act takes effect upon approval by the Governor and applies for death benefits payable based on member deaths occurring after June 30, 2010.

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