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INTRODUCED

March 8, 2012

**H. 4967**

Introduced by Ways and Means Committee

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Read the first time March 8, 2012.

**A** **BILL**

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

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

Part I

South Carolina Retirement System

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

“Section 9‑1‑1815. (A)(1) The retirement allowance received by retirees and their surviving annuitants inclusive of supplemental allowances payable pursuant to the provisions of Sections 9‑1‑1910, 9‑1‑1920, and 9‑1‑1930, are subject to an annual adjustment calculated as provided in this subsection. Annually in November the board shall subtract the assumed annual rate of return on the investments of the assets of the South Carolina Retirement System from the five‑year average investment return of the South Carolina Retirement System. If the difference of that subtraction is a positive percentage, then retirement allowances paid must be increased by the same percentage, but not more than two and one‑half percent. If the annual calculation difference results in a positive percentage, but the actual rate of return on the system’s investments for the preceding plan year was less than zero, an increase may not be granted. In no case may the calculation result in an adjustment that decreases benefits. If the annual calculation results in increased retirement allowances, then the board, by December thirty‑first following the calculation, by resolution, shall direct the increase.

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

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

SECTION 2. A. Section 9‑1‑10 of the 1976 Code, as last amended by Act 353 of 2008, is further amended by adding a new item after item (18):

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

B. Section 9‑1‑10(4) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

“(4)(a) ‘Average final compensation’ with respect to those members retiring on or after July 1, 1986, but before July 1, 2012, means the average annual earnable compensation of a member during the twelve consecutive quarters of his creditable service on which regular contributions as a member were made to the system producing the highest such average; a quarter means a period January through March, April through June, July through September, or October through December. An amount up to and including forty‑five days’ termination pay for unused annual leave at retirement may be added to the average final compensation. Average final compensation for an elected official may be calculated as the average annual earnable compensation for the thirty‑six consecutive months before the expiration of the elected official’s term of office.

(b) ‘Average final compensation’ with respect to members retiring after June 30, 2012, means the average annual earnable compensation of a member during the twenty consecutive quarters of the member’s creditable service on which regular contributions as a member were made to the system producing the highest such average; a quarter means a period January through March, April through June, July through September, or October through December. Termination pay for unused annual leave at retirement may not be added to the average final compensation.”

C. Section 9‑1‑10(8) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

“(8)(a) ‘Earnable compensation’ means the full rate of the compensation that would be payable to a member if the member worked the member’s full normal working time; when compensation includes maintenance, fees, and other things of value the board shall fix the value of that part of the compensation not paid in money directly by the employer.

(b) For work performed by a member after June 30, 2012, earnable compensation does not include any overtime pay not mandated by the employer.”

SECTION 3. Section 9‑1‑1020 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

“Section 9‑1‑1020. The employee annuity savings fund shall be the account in which shall be recorded the contributions deducted from the earnable compensation of members to provide for their employee annuities. Each employer shall cause to be deducted from the compensation of each member on each and every payroll of such employer for each and every payroll period four percent of his earnable compensation. With respect to each member who is eligible for coverage under the Social Security Act in accordance with the agreement entered into during 1955 in accordance with the provisions of Chapter 7 of this Title; however, such deduction shall, commencing with the first day of the period of service with respect to which such agreement is effective, be at the rate of three percent of the part of his earnable compensation not in excess of four thousand eight hundred dollars, plus five percent of the part of his earnable compensation in excess of four thousand eight hundred dollars. In the case of any member so eligible and receiving compensation from two or more employers, such deductions may be adjusted under such rules as the board may establish so as to be as nearly equivalent as practicable to the deductions which would have been made had the member received all of such compensation from one employer. In determining the amount earnable by a member in a payroll period, the board may consider the rate of annual earnable compensation of such member on the first day of the payroll period as continuing throughout such payroll period and it may omit deduction from earnable compensation for any period less than a full payroll period if a teacher or employee was not a member on the first day of the payroll period.

Each employer shall certify to the board on each and every payroll or in such other manner as the board may prescribe the amounts to be deducted and such amounts shall be deducted and, when deducted, shall be credited to said employee annuity savings fund, to the individual accounts of the members from whose compensation the deductions were made.

The rates of the deductions, without regard to a member’s coverage under the Social Security Act, must be the percentage of earnable compensation as provided in the following schedule:

Class One ~~Class~~ Classes

Two and Three

Before July 1, 2005 5 6

July 1, 2005 through

June 30, 2006 5.25 6.25

After June 30, 2006

through June 30, 2012 5.50 6.50

After June 30, 2012

through June 30, 2013 6 7

After June 30, 2013 6.50 7.50

Each department and political subdivision shall pick up the employee contributions required by this section for all compensation paid on or after July 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code. For this purpose, each department and political subdivision is deemed to have taken formal action on or before January 1, 2009, to provide that the contributions on behalf of its employees, although designated as employer contributions, shall be paid by the employer in lieu of employee contributions. The department and political subdivision shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The department and political subdivision may pick up these contributions by a reduction in the cash salary of the employee.

The employee, however, must not be given the option of choosing to receive the contributed amount of the pick ups directly instead of having them paid by the employer to the retirement system. Employee contributions picked up shall be treated for all purposes of this section in the same manner and to the extent as employee contributions made prior to the date picked up.

Payments for unused sick leave, single special payments at retirement, bonus and incentive‑type payments, or any other payments not considered a part of the regular salary base are not compensation for which contributions are deductible. Before July 1, 2015, contributions are deductible on up to and including forty‑five days’ termination pay for unused annual leave. If a member has received termination pay for unused annual leave on more than one occasion, contributions are deductible on up to and including forty‑five days’ termination pay for unused annual leave for each termination payment for unused annual leave received by the member. However, only an amount up to and including forty‑five days’ pay for unused annual leave from the member’s last termination payment ~~shall~~ must be included in a member’s average final compensation calculation, for the members eligible to have that pay included in the member’s average final compensation calculation.”

SECTION 4. Section 9‑1‑1080 of the 1976 Code is amended to read:

“Section 9‑1‑1080. The total amount payable in each year by each employer for credit to the employer annuity accumulation fund shall not be less than the sum of the rate ~~per cent~~ percent known as the normal contribution rate and the accrued liability contribution rate of the total earnable compensation of all members during the preceding year. After June 30, 2012, this employer contribution rate shall not be less than ten and six‑tenths percent of the total earnable compensation of all members during the preceding year, until the accrued liability contribution is discontinued pursuant to Section 9‑1‑1090. ~~Subject to the provisions of Section 9‑1‑1070, the amount of each annual accrued liability contribution shall be at least three per cent greater than the preceding annual accrued liability payment, and~~ The aggregate payment by employers shall be sufficient, when combined with the amount in the fund, to provide the employer annuities and other benefits payable out of the fund during the year then current.”

SECTION 5. Section 9‑1‑1140 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

“Section 9‑1‑1140. (A) An active member may establish service credit for any period of paid public service by making ~~a~~ an actuarially neutral payment to the system ~~to be~~ as determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated. A member may not establish credit for a period of public service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for public service to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

(B) An active member may establish service credit for any period of paid educational service by making ~~a~~ an actuarially neutral payment to the system determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated. A member may not establish credit for a period of educational service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for educational service to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

(C) An active member may establish up to six years of service credit for any period of military service, if the member was discharged or separated from military service under conditions other than dishonorable, by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated.

(D) An active member on an approved leave of absence from an employer that participates in the system who returns to covered employment within four years may purchase service credit for the period of the approved leave, but may not purchase more than two years of service credit for each separate leave period, by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated.

(E) An active member who has five or more years of earned service credit may establish up to five years of nonqualified service by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board based on the member’s current age and service credit, but not less than thirty‑five percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated.

(F) An active member may establish service credit for any period of service in which the member participated in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education, by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the system or in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education. Periods of less than a year must be prorated. A member may not establish credit for a period of service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit under this subsection to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code. Service purchased under this subsection is ‘earned service’ and counts toward the required five or more years of earned service necessary for benefit eligibility. Compensation earned for periods purchased under this subsection while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education ~~shall~~ must be treated as earnable compensation and ~~shall~~ must be used in calculating a member’s average final compensation. A member purchasing service under this subsection who has funds invested in a TIAA Traditional account under a TIAA‑CREF Retirement Annuity contract ~~shall be~~ is eligible to make a plan to plan transfer in accordance with the terms of that contract.

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

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

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

(J) Service credit purchased under this section is not ‘earned service’ and does not count toward the required five or more years of earned service necessary for benefit eligibility except:

(1) earned service previously withdrawn and reestablished;

(2) service rendered while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education that has been purchased pursuant to subsection (F); or

(3) service earned as a participant in the system, the South Carolina Police Officers Retirement System, the Retirement System for Members of the General Assembly, or the Retirement System for Judges and Solicitors that is transferred to or purchased in the system.

(K) A member may purchase each type of service under this section once each fiscal year.

(L) The board shall promulgate regulations and prescribe rules and policies, as necessary, to implement the service purchase provisions of this chapter.

(M) At retirement, after March 31, 1991, but before July 1, 2012, a member shall receive credit for not more than ninety days of his unused sick leave from the member’s last employer at no cost to the member. The leave must be credited at a rate where twenty days of unused sick leave equals one month of service. This additional service credit may not be used to qualify for retirement.

(N) An employee drawing workers’ compensation who is on a leave of absence for a limited period may voluntarily contribute on his contractual salary, to be matched by the employer.”

SECTION 6. Section 9‑1‑1510 of the 1976 Code, as last amended by Act 1 of 2001, is further amended to read:

“Section 9‑1‑1510. (A) A Class One or Class Two member may retire upon written application to the system setting forth at what time, no more than ninety days before nor more than six months after the execution and filing of the application, the member desires to be retired, if the member at the time specified for the member’s service retirement has:

(1) five or more years of earned service;

(2) attained the age of sixty years or has twenty‑eight or more years of creditable service; and

(3) separated from service.

(B) A Class Three member may retire upon written application to the system setting forth at what time, no more than ninety days before nor more than six months after the execution and filing of the application, the member desires to be retired, if the member at the time specified for the member’s service retirement has:

(1) five or more years of earned service;

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

(3) separated from service.

(C) A member who is an elected official whose annual compensation is less than the earnings limitation pursuant to Section 9‑1‑1790 and who is otherwise eligible for service retirement may retire for purposes of this section without a break in service.”

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

“Section 9‑1‑1515. (A)(1) In addition to other types of retirement provided by this chapter, a Class One or Class Two member may elect early retirement if the member:

~~(1)~~(a) has five or more years of earned service;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) has separated from service.

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

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

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

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

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

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

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

SECTION 8. Section 9‑1‑1550 of the 1976 Code, as last amended by Act 1 of 2001, is further amended by adding two new subsections to read:

“(C) Upon retirement from service after June 30, 2012, a Class Three member shall receive a service retirement allowance computed as follows:

(1) If the member’s service retirement date occurs on or after his sixty‑fifth birthday or after he has completed thirty or more years of creditable service, the allowance must be equal to one and eighty‑two hundredths percent of his average final compensation, multiplied by the number of years of his creditable service.

(2) If the member’s service retirement date occurs before his sixty‑fifth birthday and before he completes thirty years of creditable service, his service retirement allowance is computed as in item (1) of this subsection but is reduced by five‑twelfths of one percent thereof for each month, prorated for periods less than a month, by which his retirement date precedes the first day of the month coincident with or next following his sixty‑fifth birthday.

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

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

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

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

SECTION 9. Section 9‑1‑1660(A) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

“(A) The person nominated by a member to receive the full amount of the member’s accumulated contributions if the member dies before retirement may, if the member:

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

(2) dies while in service; and

(3) has either attained the age of sixty years or has accumulated fifteen years or more of creditable service, elect to receive in lieu of the accumulated contributions an allowance for life in the same amount as if the deceased member had retired at the time of the member’s death and had named the person as beneficiary under an election of Option B of Section 9‑1‑1620(A). For purposes of the benefit calculation, a Class One or Class Two member under age sixty with less than twenty‑eight years’ credit, or thirty years such credit in the case of a Class Three member, is assumed to be sixty years of age.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part II

Retirement System for Members of the General Assembly

of the State of South Carolina

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

“Section 9‑9‑60. (1) A member of the system may retire upon written application to the board setting forth at what time, not more than ninety days before nor more than six months after the execution and filing of the application, the member desires to be retired, if at the time specified for retirement, the member is no longer in the service of the State, whether as a member of the General Assembly or otherwise, except as provided in Section 9‑9‑40(3), and has either attained the age of sixty years or completed thirty years of credited service.

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

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

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

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

Part III

South Carolina Police Officers Retirement System

SECTION 13. Article 1, Chapter 11, Title 9 of the 1976 Code is amended by adding:

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

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

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

SECTION 14. Section 9‑11‑10(7) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

“(7)(a) ‘Average final compensation’ after July 1, 1986, but before July 1, 2012, means the average annual compensation of a member during the twelve consecutive quarters of the member’s creditable service on which regular contributions as a member were made to the system producing the highest average; a quarter means a period January through March, April through June, July through September, or October through December. An amount up to and including forty‑five days’ termination pay for unused annual leave at retirement may be added to the average final compensation. Average final compensation for an elected official may be calculated as the average annual earnable compensation for the thirty‑six consecutive months prior to the expiration of his term of office.

(b) ‘Average final compensation’ with respect to members retiring after June 30, 2012, means the average annual earnable compensation of a member during the twenty consecutive quarters of the member’s creditable service on which regular contributions as a member were made to the system producing the highest such average; a quarter means a period January through March, April through June, July through September, or October through December. Termination pay for unused annual leave at retirement may not be added to the average final compensation.”

SECTION 15. Section 9‑11‑50 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

“Section 9‑11‑50. (A) An active member may establish service credit for any period of paid public service by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board, based on the member’s current age and service credit, ~~board,~~ but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. Periods of less than a year must be prorated. A member may not establish credit for a period of public service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for public service to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

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

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

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

(E) An active member who has five or more years of earned service credit may establish up to five years of nonqualified service by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board, based on the member’s current age and service credit ~~board,~~ but not less than thirty‑five percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. Periods of less than a year must be prorated.

(F) An active member may establish service credit for any period of service in which the member participated in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education, by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board, based on the member’s current age and service credit, ~~board,~~ but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. Periods of less than a year must be prorated. A member may not establish credit for a period of service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit under this subsection to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code. Service purchased under this subsection is ‘earned service’ and counts toward the required five or more years of earned service necessary for benefit eligibility. Compensation earned while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education is not earnable compensation under the system and shall not be used in calculating a member’s average final compensation. A member purchasing service under this subsection who has funds invested in a TIAA Traditional account under a TIAA‑CREF Retirement Annuity contract shall be eligible to make a plan to plan transfer in accordance with the terms of that contract.

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

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

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

(J) Service credit purchased under this section is not ‘earned service’ and does not count toward the required five or more years of earned service necessary for benefit eligibility except:

(1) earned service previously withdrawn and reestablished;

(2) service rendered while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education that has been purchased pursuant to subsection (F); or

(3) service earned as a participant in the system, the South Carolina Retirement System, the Retirement System for Members of the General Assembly, or the Retirement System for Judges and Solicitors that is transferred to or purchased in the system.

(K) A member may purchase each type of service under this section once each fiscal year.

(L) At retirement, after March 31, 1991, but before July 1, 2012, a member shall receive credit for not more than ninety days of his unused sick leave from the member’s last employer at no cost to the member. The leave must be credited at a rate where twenty days of unused sick leave equals one month of service. This additional service credit may not be used to qualify for retirement.

(M) The board shall promulgate regulations and prescribe rules and policies, as necessary, to implement the service purchase provisions of this chapter.

(N) An employee drawing workers’ compensation who is on a leave of absence for a limited period may voluntarily contribute on his contractual salary, to be matched by the employer.”

SECTION 16. Section 9‑11‑60(3) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

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

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

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

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

SECTION 17. Subsections (1) and (12) of Section 9‑11‑210, as last amended by Act 14 of 2005, are further amended to read:

“(1) Each Class One member shall contribute to the system twenty‑one dollars a month during his service after becoming a member. Before July 1, 2013, each Class Two member shall contribute to the system ~~six~~ seven ~~and one‑half~~ percent of his compensation. After June 30, 2013, each Class Two member shall contribute to the system seven and one‑half percent of his compensation.

(12) Payments for unused sick leave, single special payments at retirement, bonus and incentive‑type payments, or any other payments not considered a part of the regular salary base are not compensation for which contributions are deductible. This item does not apply to bonus payments paid to certain categories of employees annually during their work careers. Bonus or special payments applied only during the ‘Average Final Compensation’ period are excluded as compensation. Before July 1, 2015, contributions are deductible on up to and including forty‑five days’ termination pay for unused annual leave. If a member has received termination pay for unused annual leave on more than one occasion, contributions are deductible on up to and including forty‑five days’ termination pay for unused annual leave for each termination payment for unused annual leave received by the member. However, only an amount up to and including forty‑five days’ pay for unused annual leave from the member’s last termination payment ~~shall~~ must be included in a member’s average final compensation calculation for those members eligible to have that pay included in that member’s average final compensation calculation.”

SECTION 18. Section 9‑11‑220(1) of the 1976 Code is amended to read:

“(1) Commencing as of July 1, 1974, each employer shall contribute to the System seven and one‑half percent of the compensation of Class One members in its employ and ten percent of compensation of Class Two members in its employ. Such rates of contribution shall be subject to adjustment from time to time on the basis of the annual actuarial valuations of the system; however, after June 30, 2012, the employer contribution rate for Class Two members shall not be less than twelve and three‑tenths percent of the earnable compensation of those members, until an accrued liability contribution is no longer required.”

SECTION 19. Section 9‑11‑310 of the 1976 Code is repealed for adjustments after July 1, 2012.

Part IV

Provisions Application to More Than One Retirement System

SECTION 20. Article 3, Chapter 16, Title 9 of the 1976 Code is amended by adding:

“Section 9‑16‑335. For all purposes of this title, the assumed annual rate of return on the investments of the retirement system must be established by the General Assembly pursuant to this section. Effective July 1, 2012, the assumed annual rate of return on retirement system investments is seven and one‑half percent.”

SECTION 21. A. Section 9‑1‑1135 of the 1976 Code, as added by Act 311 of 2008, is amended to read:

“Section 9‑1‑1135. (A) Interest ~~shall~~ must be credited to the account of each member once each year as of June thirtieth, on the basis of the balance in the account of each member as of the previous June thirtieth. Upon the death, retirement, or termination of a member, interest ~~shall~~ must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in ~~such~~ the member’s account as of the June thirtieth immediately preceding the date of refund or retirement.

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

B. Section 9‑8‑185 of the 1976 Code, as added by Act 311 of 2008, is amended to read:

“Section 9‑8‑185. (A) Interest ~~shall~~ must be credited to the account of each member once each year as of June thirtieth, on the basis of the balance in the account of each member as of the previous June thirtieth. Upon the death, retirement, or termination of a member, interest ~~shall~~ must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in ~~such~~ the member’s account as of the June thirtieth immediately preceding the date of refund or retirement.

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

C. Section 9‑9‑175 of the 1976 Code, as added by Act 311 of 2008, is amended to read:

“Section 9‑9‑175. (A) Interest ~~shall~~ must be credited to the account of each member once each year as of June thirtieth, on the basis of the balance in the account of each member as of the previous June thirtieth. Upon the death, retirement, or termination of a member, interest ~~shall~~ must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in ~~such~~ the member’s account as of the June thirtieth immediately preceding the date of refund or retirement.

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

D. Section 9‑11‑265 of the 1976 Code, as added by Act 311 of 2008, is amended to read:

“Section 9‑11‑265. (A) Interest ~~shall~~ must be credited to the account of each member once each year as of June thirtieth, on the basis of the balance in the account of each member as of the previous June thirtieth. Upon the death, retirement, or termination of a member, interest ~~shall~~ must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in ~~such~~ the member’s account as of the June thirtieth immediately preceding the date of refund or retirement.

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

Part V

Miscellaneous, Effective Date

SECTION 22. If any part, section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every part, section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other parts, sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 23. Except where otherwise stated, this act takes effect July 1, 2012.

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