DISCLAIMER

The South Carolina Legislative Council is offering access to the unannotated South Carolina Code of Laws on the Internet as a service to the public. The unannotated South Carolina Code on the General Assembly's website is now current through the 2008 session. The unannotated South Carolina Code, consisting only of Code text and numbering, may be copied from this website at the reader's expense and effort without need for permission.

The Legislative Council is unable to assist users of this service with legal questions. Also, legislative staff cannot respond to requests for legal advice or the application of the law to specific facts. Therefore, to understand and protect your legal rights, you should consult your own private lawyer regarding all legal questions.

While every effort was made to ensure the accuracy and completeness of the unannotated South Carolina Code available on the South Carolina General Assembly's website, the unannotated South Carolina Code is not official, and the state agencies preparing this website and the General Assembly are not responsible for any errors or omissions which may occur in these files. Only the current published volumes of the South Carolina Code of Laws Annotated and any pertinent acts and joint resolutions contain the official version.

Please note that the Legislative Council is not able to respond to individual inquiries regarding research or the features, format, or use of this website. However, you may notify Legislative Printing, Information and Technology Systems at [LPITS@scstatehouse.net](mailto:LPITS@scstatehouse.gov) regarding any apparent errors or omissions in content of Code sections on this website, in which case LPITS will relay the information to appropriate staff members of the South Carolina Legislative Council for investigation.

CHAPTER 20.

STATE OPTIONAL RETIREMENT PROGRAM

**SECTION 9‑20‑10.** Definitions.

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 education supported and under the control of the State;

(c) a technical college supported 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.

(2) “Eligible employee” means:

(a) a person hired on or after July 1, 2001, by an employer as defined in Section 9‑20‑10(1)(a) to fill a permanent full‑time position;

(b) a person hired on or after July 1, 2002, by an employer as defined in Section 9‑20‑10(1)(b), (c), or (d) to fill a permanent full‑time position;

(c) a person hired on or after July 1, 2003, by an employer as defined in Section 9‑20‑10(1) to fill a temporary position or a part‑time permanent position;

(d) a person employed by an employer as defined in Section 9‑20‑10(1) who, as of June 30, 2001, was a participant of the Optional Retirement Program for Teachers and School Administrators or who, as of June 30, 2002, was a participant of the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education; or

(e) an employee, hired on or after January 1, 2003, by the State or any of its departments, agencies, bureaus, commissions, or institutions who is not covered by the State Employee Grievance Procedure but who is eligible to participate in either the South Carolina Retirement System or the Police Officers Retirement System.

However, an 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 State Optional Retirement Program.

(3) “Participant” means an eligible employee who participates in the optional retirement program provided by this chapter.

(4) “Open enrollment period” means the period from January first to March first of each year.

**SECTION 9‑20‑20.** State Optional Retirement Program.

The South Carolina Retirement System shall establish the State Optional Retirement Program (State ORP), a defined contribution plan, for eligible employees defined in Section 9‑20‑10(2). An employee is not eligible to participate in the State ORP unless the employee is eligible for membership in the South Carolina Retirement System. The following retirement and death benefit payment options may be provided for a participant in the State ORP: 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.

**SECTION 9‑20‑30.** Administration of program; designation of investment companies.

The South Carolina Retirement System shall provide for the administration of the State Optional Retirement Program under this chapter. The director acting on behalf of the South Carolina Retirement System shall designate no fewer than four companies to provide annuity contracts, mutual fund accounts, or similar investment products offered through state or national banking institutions, or a combination of them, under the program. In making the designation, selection criteria must include:

(1) the nature and extent of the rights and benefits to be provided by the contracts or accounts, or both, of participants and their beneficiaries;

(2) the relation of the rights and benefits to the amount of contributions to be made;

(3) the suitability of these rights and benefits to the needs of the participants;

(4) the ability and experience of the designated companies in providing suitable rights and benefits under the contracts or accounts, or both;

(5) the ability and experience of the designated companies to provide suitable education and investment options.

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

**SECTION 9‑20‑40.** Election of system; changing systems concurrent positions; open enrollment period.

(A) All eligible employees shall elect either to join the South Carolina Retirement System or to participate in the State ORP under this chapter within thirty days after entry into service. If an eligible employee fails to make the initial election within the required time, the employee is considered to have elected membership in the South Carolina Retirement System. 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 State ORP participant who accepts an additional concurrent position with an employer participating in the South Carolina Retirement System must enroll in the State ORP for the second position if the second position is eligible to participate in the State ORP. Also, a member of the South Carolina Retirement System 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 electing to participate in the State ORP assumes all investment risk. The election to participate in the State ORP is irrevocable except as set forth in subsections (B) and (C).

(B) A State ORP participant may irrevocably elect to join the South Carolina Retirement System 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 ORP. The State ORP participant shall become a member of the South Carolina Retirement System effective on the first of April following the participant’s election to join the South Carolina Retirement System under this subsection. For purposes of this subsection, the date of initial enrollment in the State ORP 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 Education is the date of initial enrollment in these programs.

(C) Any participant in the State Optional Retirement Program who was a participant in the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education may irrevocably elect to participate in the South Carolina Retirement System during the open enrollment period from January 1, 2004, to March 1, 2004. A State ORP participant electing to participate in the South Carolina Retirement System under this subsection shall become a member of the South Carolina Retirement System on April 1, 2004.

(D) All participants in the Optional Retirement Program for Teachers and School Administrators on July 1, 2001, and the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education on July 1, 2002, thereafter are participants in the State ORP.

**SECTION 9‑20‑50.** Contributions.

Each participant shall contribute monthly to the program the same amount he would be required to contribute to the South Carolina Retirement System if the participant were a member of that system. Participant contributions must be made by employer pick up in accordance with Section 9‑1‑1160(B) and any applicable provisions of the Internal Revenue Code of 1986. Each employer shall contribute on behalf of each participant five percent of compensation. Deductions must not be made from this five percent contribution. Each employer shall remit to the designated companies for application to participants’ contracts or accounts, or both, an amount equal to the participant’s contribution plus the employer’s contribution in accordance with the guidelines established by the Internal Revenue Service for payroll tax remittance. The employer shall remit to the retirement system the percentage of the employee’s compensation that is the difference between the system employer contribution rate set in Section 9‑1‑1175 and the five percent allocated to member accounts in this section in accordance with the guidelines established for remitting retirement contributions to the South Carolina Retirement System. The South Carolina Retirement System 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) on‑going investment education, where appropriate;

(3) recordkeeping; and

(4) monitoring contract compliance.

**SECTION 9‑20‑60.** Group life insurance benefits.

Group life insurance benefits may be paid by the State for service rendered while participating in the State ORP 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 State ORP. 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.