

H.4967 House Ways and Means Bill Summary

South Carolina Retirement System (SCRS)

Membership Classes

Class One and Class Two Members (current provisions). Members with an effective date of membership on or before the effective date of the Bill, remain as either Class One or Class Two members, as applicable, and the provisions of the Retirement Code currently in effect remain unchanged with regard to their accrual and receipt of benefits, except for the 5 year AFC, Sick and Annual Leave and overtime provisions (see below).

Class Three Members (new provisions). Members with an effective date of membership after the effective date of the Bill, are Class Three members to which all of the new provisions of the act are applied.

Contributions to the System/ Service Credit

Employee Contributions. Effective July 1, 2012, employee contributions to SCRS are increased by $\frac{1}{2}$ of 1% until June 30, 2013. Class One members will contribute 6.0% of earnable compensation, while Class Two and Three members will contribute 7.0% of earnable compensation.

After July 1, 2012, employee contributions to SCRS are increased by an additional $\frac{1}{2}$ of 1%. Class One members will contribute 6.5% of earnable compensation, while Class Two and Three members will contribute 7.5% of earnable compensation.

Employer Contributions. After June 30, 2012, the employer contribution rate shall not be less than 10.6% of the total earnable compensation, until the accrued liability contribution is discontinued pursuant to section 9-1-1090.

Service Purchase Cost. The cost of purchasing service credit under SCRS, other than the re-establishment of withdrawn time, will be determined on an actuarially neutral basis based upon the member's age, service credit, and current salary or career highest fiscal year salary, whichever is greater. However, the cost for such service shall not be less than 35% of the greater of the member's current salary or career highest fiscal year salary per year for nonqualified service, and 16% per year for all other types of service.

Sick Leave. For Retirements after the effective date, the member will not receive service credit for unused sick leave. Protection is provided for benefits earned prior to the effective date.

Earnable Compensation/Average Final Compensation (AFC)

Five-Year AFC. For all members, AFC is determined based upon a 5-year period, rather than the current 3-year period. Protection is provided for benefits earned prior to the effective date.

Annual Leave Payout. For Retirements after the effective date, termination pay for unused annual leave is not included in the calculation of the member's AFC. Protection is provided for benefits earned prior to the effective date.

Overtime Pay. For all members, overtime pay earned after the effective date of the Bill is not included in the member's earnable compensation or AFC, unless the pay is for overtime work that is mandated by the employer.

Retirement Eligibility/Benefit Calculation

Class One and Class Two Members. The eligibility requirements for, and the calculation of, retirement benefits for Class One and Class Two remain at 28 years of service credit, but will include the five year AFC period, the Annual and Sick leave provisions and the overtime pay restrictions. However, the benefit provided to a Class One or Class Two member must be not less than the benefit that would have been provided had the member retired on June 30, 2012.

Class Three Members. A Class Three member may retire if he has:

five or more years of earned service;

attained the age of 60 or has 30 years of service credit; and

separated from service.

Class Three members benefit calculation, like classes one and two, will be based on a 5 year AFC period. Neither annual nor sick leave will be included in the benefit calculation. Any early retirement provisions are based on 30 year retirement rather than 28 year retirement.

TERI Program. The TERI Program will be closed to members with an effective date of membership after July 1, 2012.

Cost-of-Living Adjustments (COLA)

Cost-of-Living Adjustments. Current COLA provisions are repealed. Under the new provisions, Benefit Adjustments (BA) will be determined using a trigger related to actual returns based on a trailing 5 year average compared to the assumed rate of return. When the five year average exceeds the assumed rate of return, a BA will be paid in an amount equal to the difference up to 2.5%. If the five year average doesn't exceed the assumed rate of return, no BA will be paid for that year. Also, regardless of the five year average on returns, no BA will be paid in any year where the actual return for that year is less than zero.

Police Officers' Retirement System (PORS)

Membership Classes

No new membership classes in PORS. Any changes apply to all members (with protection for benefits earned or accrued as of June 30, 2012).

Contributions to the System/ Service Credit

Employee Contributions. Effective July 1, 2012, employee contributions for Class Two members are increased by $\frac{1}{2}$ of 1% until June 30, 2013. Class Two members will contribute 7.0% of earnable compensation.

After July 1, 2012, employee contributions to SCRS are increased by an additional $\frac{1}{2}$ of 1%. Class Two members will contribute 7.5% of earnable compensation.

After the increase, Class One members will continue to contribute \$21 per month.

Employer Contributions. After June 30, 2012, the employer contribution rate shall not be less than 12.3% of the total earnable compensation, until the accrued liability contribution is no longer required.

Service Purchase Cost. The cost of purchasing service credit under PORS, other than the re-establishment of withdrawn time, will be determined on an actuarially neutral basis based upon the member's age, service credit, and current salary or career highest fiscal year salary, whichever is greater. However, the cost for such service shall not be less than 35% of the greater of the member's current salary or career highest fiscal year salary per year for nonqualified service, and 16% per year for all other types of service.

Sick Leave. For Retirements after the effective date, the member will not receive service credit for unused sick leave. Protection is provided for benefits earned prior to the effective date.

Earnable Compensation/Average Final Compensation (AFC)

Five-Year AFC. For all members, AFC is determined based upon a 5-year period, rather than the current 3-year period. Protection is provided for benefits earned prior to the effective date.

Annual Leave Payout. For Retirements after the effective date, termination pay for unused annual leave is not included in the calculation of the member's AFC. Protection is provided for benefits earned prior to the effective date.

Retirement Benefit Calculation

Note: the proposed bill does not amend the eligibility requirements for retirement under PORS.

The calculation of retirement benefits for Class One and Class Two members remains unchanged, with the exception of the 5 year AFC period and annual and sick leave inclusions (see above). However, the benefit provided to a Class One or Class Two member must be not less than the benefit that would have been provided had the member retired on June 30, 2012.

Cost-of-Living Adjustments (COLA)

Cost-of-Living Adjustments. Current COLA provisions are repealed. Under the new provisions, Benefit Adjustments (BA) will be determined using a trigger related to actual returns based on a trailing 5 year average compared to the assumed rate of return. When the five year average exceeds the assumed rate of return, a BA will be paid in an amount equal to the difference up to 2.5%. If the five year average doesn't exceed the assumed rate of return, no BA will be paid for that year. Also, regardless of the five year average on returns, no BA will be paid in any year where the actual return for that year is less than zero.

Retirement System for Members of the General Assembly (GARS)

Retire in Place. Provisions allowing a member of GARS to retire without leaving service in the General Assembly are repealed prospectively (applies to any member who has not yet retired).

Service Purchase. Service purchase costs for the types of service addressed in the amendments to 9-1-1140 will be actuarially neutral.

Other Provisions

Set Assumed Rate of Return. The General Assembly is authorized to set the assumed rate of return on the System's investments for valuation purposes, and the assumed rate of return is set by statute at 7.5%.

Eliminate Interest on Inactive Accounts. The accounts of inactive members of the Systems will no longer accrue regular interest like active member accounts.

House Retirement Ad Hoc Committee Bill

Change	New Employees	Current Employees	SCRS	PORS	GARS
Benefit Adjustment- Benefit adjustment to be granted unless certain revenue triggers are not met. Percentage not to exceed 2.5%. <ul style="list-style-type: none"> • 7.5% rate of return must be met based on 5 year average 	X	X	X	X	N/A
Retirement Age and Service with Full Benefits – New employees must have 30 years of service to receive 100% of eligible benefits.	X	N/A	X	N/A	N/A
AFC – The average final compensation (AFC) will be computed using the 5 highest years rather than the current 3 highest years of compensation.	X	X	X	X	N/A
Leave – Sick leave will no longer be used to add additional service credit. Annual leave will no longer be added to the average final compensation.	X	X	X	X	N/A
Service purchase – Require actuarially neutral service purchase.	X	X	X	X	X
Employee contribution rates – Increase the employee contribution rate by 1%. *Phase-in over 2 years.*	X	X	X	X	N/A
Employer contribution rates – Increase the employer contribution rate by 1%. *As adopted by Budget & Control Board on November 3, 2011.* *Set the floor at 10.6%*	X	X	X	X	N/A
Earnable compensation –SCRS members will no longer be allowed to use overtime and special pay as earnable compensation.	X	X	X	N/A	N/A
TERI – No longer available for new employees. No action considered for current employees.	X	N/A	X	N/A	N/A
Inactive Accounts- Interest will not accrue on inactive accounts.	X	X	X	X	X
Retirement Benefits and Salary- Eliminate ability for serving Members of the General Assembly to draw retirement benefits as well as salary during service.	N/A	N/A	N/A	N/A	X

South Carolina General Assembly
119th Session, 2011-2012

H. 4967

STATUS INFORMATION

General Bill

Sponsors: Ways and Means Committee

Document Path: I:\council\bills\bbm\10574htc12.docx

Companion/Similar bill(s): 4898

Introduced in the House on March 8, 2012

Currently residing in the House

Summary: Not yet available

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
3/8/2012	House	Introduced, read first time, placed on calendar without reference (<u>House Journal-page 13</u>)

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VERSIONS OF THIS BILL

3/8/2012

3/8/2012-A

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

3

4 INTRODUCED

5 March 8, 2012

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H. 4967

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9 Introduced by Ways and Means Committee

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11 S. Printed 3/8/12--H.

12 Read the first time March 8, 2012.

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A BILL

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11 TO AMEND SECTION 9-1-10, AS AMENDED, CODE OF
12 LAWS OF SOUTH CAROLINA, 1976, RELATING TO
13 DEFINITIONS UNDER THE SOUTH CAROLINA
14 RETIREMENT SYSTEM (SCRS), SO AS TO PROVIDE FOR
15 "CLASS THREE" MEMBERS OF SCRS WITH "CLASS
16 THREE" MEMBERS MEANING AN EMPLOYEE MEMBER
17 OF SCRS WITH AN EFFECTIVE DATE OF MEMBERSHIP
18 AFTER JUNE 30, 2012; TO AMEND SECTIONS 9-1-10
19 FURTHER AND 9-1-1550, RELATING TO RETIREMENT
20 BENEFITS UNDER THE SCRS, SO AS TO REVISE THE
21 MANNER IN WHICH RETIREMENT BENEFITS FOR SCRS
22 MEMBERS ARE COMPUTED AFTER JUNE 30, 2012, AND
23 TO PROVIDE FOR AN ALTERNATE CALCULATION OF
24 BENEFITS FOR SCRS MEMBERS AS OF JUNE 30, 2012,
25 WHICH APPLIES IF THE MEMBER'S BENEFIT
26 CALCULATED ON RETIREMENT AFTER JUNE 30, 2012,
27 WOULD RESULT IN A LESSER AMOUNT; BY ADDING
28 SECTION 9-1-1815 SO AS TO PROVIDE FOR THE MANNER
29 IN WHICH RETIRED SCRS MEMBERS AND THEIR
30 SURVIVING ANNUITANTS MAY RECEIVE INCREASED
31 ALLOWANCES AND THE METHOD OF CALCULATING
32 THAT INCREASE; AND TO REPEAL SECTION 9-1-1810
33 RELATING TO INCREASES IN SCRS RETIREMENT
34 ALLOWANCES BASED ON THE CONSUMER PRICE INDEX;
35 TO AMEND SECTION 9-1-1020, AS AMENDED, RELATING
36 TO DEDUCTIONS FROM THE COMPENSATION OF
37 MEMBERS OF SCRS TO FUND BENEFITS, THE TAX
38 TREATMENT THEREOF, AND OTHER RELATED
39 PROVISIONS, SO AS TO INCREASE ON JULY 1, 2012, THE
40 REQUIRED DEDUCTIONS OF CLASS ONE SCRS MEMBERS
41 TO SIX PERCENT OF EARNABLE COMPENSATION FROM
42 FIVE AND ONE-HALF PERCENT AND THE REQUIRED

1 DEDUCTIONS OF SCRS CLASS TWO AND CLASS THREE
2 MEMBERS TO SEVEN PERCENT OF EARNABLE
3 COMPENSATION FROM SIX AND ONE-HALF PERCENT
4 AND TO INCREASE SUCH CONTRIBUTIONS BY AN
5 ADDITIONAL ONE HALF OF ONE PERCENT EFFECTIVE
6 JULY 1, 2013, AND MAKE CONFORMING CHANGES; TO
7 AMEND SECTION 9-1-1080, RELATING TO EMPLOYER
8 CONTRIBUTIONS FOR SCRS, SO AS TO PROVIDE FOR A
9 MINIMUM EMPLOYER CONTRIBUTION RATE OF TEN
10 AND SIX-TENTHS PERCENT OF EARNABLE
11 COMPENSATION WHILE AN ACCRUED LIABILITY
12 CONTRIBUTION IS REQUIRED; TO AMEND SECTION
13 9-1-1140, AS AMENDED, RELATING TO THE PURCHASE
14 OF ADDITIONAL SERVICE CREDIT UNDER SCRS, SO AS
15 TO PROVIDE THAT THE REQUIRED COST IS THE
16 GREATER OF AN ACTUARIALLY NEUTRAL PAYMENT
17 BASED ON THE SCRS MEMBER'S CURRENT AGE AND
18 CREDITABLE SERVICE OR A SET PERCENTAGE OF
19 SALARY AND TO ELIMINATE THE ADDITION OF UNUSED
20 SICK LEAVE IN THE CALCULATION OF CREDITABLE
21 SERVICE AFTER JUNE 30, 2012; TO AMEND SECTION
22 9-1-1510, AS AMENDED, RELATING TO THE
23 REQUIREMENTS FOR A SCRS RETIREMENT
24 ALLOWANCE, SO AS TO PROVIDE THAT A SCRS CLASS
25 THREE MEMBER MUST HAVE AT LEAST THIRTY YEARS
26 OF CREDITABLE SERVICE TO BE ELIGIBLE TO RETIRE AT
27 ANY AGE WITHOUT A BENEFIT REDUCTION; TO AMEND
28 SECTION 9-1-1515, AS AMENDED, RELATING TO THE
29 REQUIREMENTS FOR EARLY RETIREMENT IN SCRS, SO
30 AS TO CONFORM THE REQUIREMENTS OF THAT
31 SECTION AS IT APPLIES FOR SCRS CLASS THREE
32 MEMBERS; TO AMEND SECTION 9-1-1660, AS AMENDED,
33 RELATING TO THE REQUIREMENTS FOR A NOMINEE OF
34 A DECEASED ACTIVE SCRS MEMBER TO RECEIVE A
35 RETIREMENT ALLOWANCE, SO AS TO CONFORM THE
36 REQUIREMENTS OF THAT SECTION AS IT APPLIES FOR
37 SCRS CLASS THREE MEMBERS; TO AMEND SECTION
38 9-1-2210, AS AMENDED, RELATING TO THE TEACHER
39 AND EMPLOYEE RETENTION INCENTIVE (TERI)
40 PROGRAM, SO AS TO CLOSE THE PROGRAM FOR SCRS
41 CLASS THREE MEMBERS AND TO CONFORM THE
42 CALCULATION OF RETIREMENT BENEFITS FOR TERI
43 PARTICIPANTS; TO AMEND SECTION 9-9-60, AS

1 AMENDED, RELATING TO RETIREMENT AND
2 RETIREMENT ALLOWANCES FOR MEMBERS OF THE
3 RETIREMENT SYSTEM FOR MEMBERS OF THE GENERAL
4 ASSEMBLY OF THE STATE OF SOUTH CAROLINA (GARS),
5 SO AS PROSPECTIVELY TO ELIMINATE PROVISIONS
6 ALLOWING MEMBERS OF THE GENERAL ASSEMBLY
7 WHO MEET CERTAIN AGE OR CREDITED SERVICE
8 REQUIREMENTS OR WITH AGE AND CREDITED SERVICE
9 REQUIREMENTS TO RECEIVE A GARS RETIREMENT
10 BENEFIT WHILE CONTINUING TO SERVE IN THE
11 GENERAL ASSEMBLY; TO AMEND SECTIONS 9-11-10 AND
12 9-11-60, BOTH AS AMENDED, RELATING TO DEFINITIONS
13 AND ELIGIBILITY FOR RETIREMENT UNDER THE SOUTH
14 CAROLINA POLICE OFFICERS RETIREMENT SYSTEM
15 (SCPORS), SO AS TO REVISE THE MANNER IN WHICH
16 RETIREMENT BENEFITS FOR SCPORS MEMBERS
17 RETIRING AFTER JUNE 30, 2012, ARE COMPUTED AND TO
18 PROVIDE FOR AN ALTERNATE CALCULATION OF
19 BENEFITS FOR SCPORS MEMBERS AS OF JUNE 30, 2012,
20 WHICH APPLIES IF THE SCPORS MEMBER'S BENEFIT
21 CALCULATED ON RETIREMENT AFTER JUNE 30, 2012,
22 WOULD RESULT IN A LESSER AMOUNT; BY ADDING
23 SECTION 9-11-312 SO AS TO PROVIDE FOR THE MANNER
24 IN WHICH SCPORS RETIRED MEMBERS AND THEIR
25 SURVIVING ANNUITANTS MAY RECEIVE INCREASED
26 ALLOWANCES AND THE METHOD OF CALCULATING
27 THAT INCREASE; AND TO REPEAL SECTION 9-11-310
28 RELATING TO COST OF LIVING ADJUSTMENTS UNDER
29 SCPORS BASED ON THE CONSUMER PRICE INDEX; TO
30 AMEND SECTION 9-11-50, AS AMENDED, RELATING TO
31 THE PURCHASE OF ADDITIONAL SERVICE CREDIT
32 UNDER SCPORS, SO AS TO PROVIDE THAT THE
33 REQUIRED COST MUST BE THE GREATER OF AN
34 ACTUARIALLY NEUTRAL PAYMENT BASED ON THE
35 MEMBERS CURRENT AGE AND CREDITABLE SERVICE
36 OR A SET PERCENTAGE OF SALARY AND TO ELIMINATE
37 THE ADDITION OF UNUSED SICK LEAVE IN THE
38 CALCULATION OF CREDITABLE SERVICE AFTER JUNE
39 30, 2012; TO AMEND SECTION 9-11-210, AS AMENDED,
40 RELATING TO DEDUCTIONS FROM THE COMPENSATION
41 OF MEMBERS OF SCPORS TO FUND BENEFITS, THE TAX
42 TREATMENT THEREOF, AND OTHER RELATED
43 PROVISIONS, SO AS TO INCREASE ON JULY 1, 2012, THE

1 REQUIRED DEDUCTIONS OF SCPORS CLASS TWO
2 MEMBERS TO SEVEN PERCENT OF EARNABLE
3 COMPENSATION FROM SIX AND ONE-HALF PERCENT
4 AND TO INCREASE SUCH CONTRIBUTIONS BY AN
5 ADDITIONAL ONE HALF OF ONE PERCENT EFFECTIVE
6 JULY 1, 2013; TO AMEND SECTION 9-11-220, AS
7 AMENDED, RELATING TO EMPLOYER CONTRIBUTIONS
8 FOR SCPORS, SO AS TO PROVIDE FOR A MINIMUM
9 EMPLOYER CONTRIBUTION RATE OF TWELVE AND
10 THREE TENTHS PERCENT OF EARNABLE
11 COMPENSATION WHILE AN ACCRUED LIABILITY
12 CONTRIBUTION IS REQUIRED; BY ADDING SECTION
13 9-16-335 SO AS TO PROVIDE THAT THE ASSUMED
14 ANNUAL RATE OF RETURN ON THE INVESTMENTS OF
15 THE RETIREMENT SYSTEM MUST BE ESTABLISHED BY
16 THE GENERAL ASSEMBLY AND EFFECTIVE JULY 1, 2012,
17 THE ASSUMED ANNUAL RATE OF RETURN ON
18 RETIREMENT SYSTEM INVESTMENTS IS SEVEN AND
19 ONE-HALF PERCENT; AND TO AMEND SECTIONS
20 9-1-1135, 9-8-185, 9-9-175, AND 9-11-265, RELATING TO
21 INTEREST ON MEMBER'S CONTRIBUTIONS IN SCRS,
22 GARS, THE RETIREMENT SYSTEM FOR JUDGES AND
23 SOLICITORS, AND SCPORS, SO AS TO PROVIDE THAT
24 INTEREST IS NOT PAID ON INACTIVE ACCOUNTS, AND
25 TO DEFINE "INACTIVE ACCOUNT".

26

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

29

30

Part I

31

32

South Carolina Retirement System

33

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

36

37 "Section 9-1-1815. (A)(1) The retirement allowance received by
38 retirees and their surviving annuitants inclusive of supplemental
39 allowances payable pursuant to the provisions of Sections
40 9-1-1910, 9-1-1920, and 9-1-1930, are subject to an annual
41 adjustment calculated as provided in this subsection. Annually in
42 November the board shall subtract the assumed annual rate of
43 return on the investments of the assets of the South Carolina

1 Retirement System from the five-year average investment return of
2 the South Carolina Retirement System. If the difference of that
3 subtraction is a positive percentage, then retirement allowances
4 paid must be increased by the same percentage, but not more than
5 two and one-half percent. If the annual calculation difference
6 results in a positive percentage, but the actual rate of return on the
7 system's investments for the preceding plan year was less than
8 zero, an increase may not be granted. In no case may the
9 calculation result in an adjustment that decreases benefits. If the
10 annual calculation results in increased retirement allowances, then
11 the board, by December thirty-first following the calculation, by
12 resolution, shall direct the increase.

13 (2) For purposes of this subsection, the 'five-year average
14 investment return' means the average of the investment returns of
15 the most recent five plan years ending on June thirtieth before the
16 November calculation date as determined by the board.

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

26

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

30

31 "(18A) 'Class Three member' means an employee member of
32 the system with an effective date of system membership after June
33 30, 2012."

34

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

37

38 "(4)(a) 'Average final compensation' with respect to those
39 members retiring on or after July 1, 1986, but before July 1, 2012,
40 means the average annual earnable compensation of a member
41 during the twelve consecutive quarters of his creditable service on
42 which regular contributions as a member were made to the system
43 producing the highest such average; a quarter means a period

1 January through March, April through June, July through
2 September, or October through December. An amount up to and
3 including forty-five days' termination pay for unused annual leave
4 at retirement may be added to the average final compensation.
5 Average final compensation for an elected official may be
6 calculated as the average annual earnable compensation for the
7 thirty-six consecutive months before the expiration of the elected
8 official's term of office.

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

18
19 C. Section 9-1-10(8) of the 1976 Code, as last amended by Act
20 387 of 2000, is further amended to read:

21
22 "(8)(a) 'Earnable compensation' means the full rate of the
23 compensation that would be payable to a member if the member
24 worked the member's full normal working time; when
25 compensation includes maintenance, fees, and other things of
26 value the board shall fix the value of that part of the compensation
27 not paid in money directly by the employer.

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

31
32 SECTION 3. Section 9-1-1020 of the 1976 Code, as last amended
33 by Act 311 of 2008, is further amended to read:

34
35 "Section 9-1-1020. The employee annuity savings fund shall be
36 the account in which shall be recorded the contributions deducted
37 from the earnable compensation of members to provide for their
38 employee annuities. Each employer shall cause to be deducted
39 from the compensation of each member on each and every payroll
40 of such employer for each and every payroll period four percent of
41 his earnable compensation. With respect to each member who is
42 eligible for coverage under the Social Security Act in accordance
43 with the agreement entered into during 1955 in accordance with

1 the provisions of Chapter 7 of this Title; however, such deduction
 2 shall, commencing with the first day of the period of service with
 3 respect to which such agreement is effective, be at the rate of three
 4 percent of the part of his earnable compensation not in excess of
 5 four thousand eight hundred dollars, plus five percent of the part of
 6 his earnable compensation in excess of four thousand eight
 7 hundred dollars. In the case of any member so eligible and
 8 receiving compensation from two or more employers, such
 9 deductions may be adjusted under such rules as the board may
 10 establish so as to be as nearly equivalent as practicable to the
 11 deductions which would have been made had the member received
 12 all of such compensation from one employer. In determining the
 13 amount earnable by a member in a payroll period, the board may
 14 consider the rate of annual earnable compensation of such member
 15 on the first day of the payroll period as continuing throughout such
 16 payroll period and it may omit deduction from earnable
 17 compensation for any period less than a full payroll period if a
 18 teacher or employee was not a member on the first day of the
 19 payroll period.

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

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

	Class One	<u>Class Classes</u> <u>Two and Three</u>
31 Before July 1, 2005	5	6
32 July 1, 2005 through		
33 June 30, 2006	5.25	6.25
34 After June 30, 2006		
35 <u>through June 30, 2012</u>	5.50	6.50
36 <u>After June 30, 2012</u>		
37 <u>through June 30, 2013</u>	<u>6</u>	<u>7</u>
38 <u>After June 30, 2013</u>	<u>6.50</u>	<u>7.50</u>

39 Each department and political subdivision shall pick up the
 40 employee contributions required by this section for all
 41 compensation paid on or after July 1, 1982, and the contributions
 42 so picked up shall be treated as employer contributions in
 43 determining federal tax treatment under the United States Internal

1 Revenue Code. For this purpose, each department and political
2 subdivision is deemed to have taken formal action on or before
3 January 1, 2009, to provide that the contributions on behalf of its
4 employees, although designated as employer contributions, shall
5 be paid by the employer in lieu of employee contributions. The
6 department and political subdivision shall pay these employee
7 contributions from the same source of funds which is used in
8 paying earnings to the employee. The department and political
9 subdivision may pick up these contributions by a reduction in the
10 cash salary of the employee.

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

17 Payments for unused sick leave, single special payments at
18 retirement, bonus and incentive-type payments, or any other
19 payments not considered a part of the regular salary base are not
20 compensation for which contributions are deductible. Before July
21 1, 2015, contributions are deductible on up to and including
22 forty-five days' termination pay for unused annual leave. If a
23 member has received termination pay for unused annual leave on
24 more than one occasion, contributions are deductible on up to and
25 including forty-five days' termination pay for unused annual leave
26 for each termination payment for unused annual leave received by
27 the member. However, only an amount up to and including
28 forty-five days' pay for unused annual leave from the member's
29 last termination payment ~~shall~~ must be included in a member's
30 average final compensation calculation, for the members eligible to
31 have that pay included in the member's average final
32 compensation calculation."

33
34 SECTION 4. Section 9-1-1080 of the 1976 Code is amended to
35 read:

36
37 "Section 9-1-1080. The total amount payable in each year by
38 each employer for credit to the employer annuity accumulation
39 fund shall not be less than the sum of the rate ~~per cent~~ percent
40 known as the normal contribution rate and the accrued liability
41 contribution rate of the total earnable compensation of all members
42 during the preceding year. After June 30, 2012, this employer
43 contribution rate shall not be less than ten and six-tenths percent of

1 the total earnable compensation of all members during the
2 preceding year, until the accrued liability contribution is
3 discontinued pursuant to Section 9-1-1090. Subject to the
4 provisions of Section 9-1-1070, the amount of each annual accrued
5 liability contribution shall be at least three per cent greater than the
6 preceding annual accrued liability payment, and The aggregate
7 payment by employers shall be sufficient, when combined with the
8 amount in the fund, to provide the employer annuities and other
9 benefits payable out of the fund during the year then current.”

10
11 SECTION 5. Section 9-1-1140 of the 1976 Code, as last amended
12 by Act 311 of 2008, is further amended to read:

13
14 “Section 9-1-1140. (A) An active member may establish
15 service credit for any period of paid public service by making a an
16 actuarially neutral payment to the system ~~to be~~ as determined by
17 the actuary for the board based on the member’s current age and
18 service credit, but not less than sixteen percent of the member’s
19 current salary or career highest fiscal year salary, whichever is
20 greater, for each year of credit purchased. A member’s career
21 highest fiscal year salary shall include the member’s salary while
22 participating in the State Optional Retirement Program, the
23 Optional Retirement Program for Teachers and School
24 Administrators, or the Optional Retirement Program for Publicly
25 Supported Four-Year and Postgraduate Institutions of Higher
26 Education if the member has purchased service rendered under any
27 of these programs pursuant to subsection (F) of this section.
28 Periods of less than a year must be prorated. A member may not
29 establish credit for a period of public service for which the member
30 also may receive a retirement benefit from another defined benefit
31 retirement plan. A member may not establish service credit for
32 public service to the extent such service purchase would violate
33 Section 415 or any other provision of the Internal Revenue Code.

34 (B) An active member may establish service credit for any
35 period of paid educational service by making a an actuarially
36 neutral payment to the system determined by the actuary for the
37 board based on the member’s current age and service credit, but
38 not less than sixteen percent of the member’s current salary or
39 career highest fiscal year salary, whichever is greater, for each year
40 of credit purchased. A member’s career highest fiscal year salary
41 shall include the member’s salary while participating in the State
42 Optional Retirement Program, the Optional Retirement Program
43 for Teachers and School Administrators, or the Optional

1 Retirement Program for Publicly Supported Four-Year and
2 Postgraduate Institutions of Higher Education if the member has
3 purchased service rendered under any of these programs pursuant
4 to subsection (F) of this section. Periods of less than a year must
5 be prorated. A member may not establish credit for a period of
6 educational service for which the member also may receive a
7 retirement benefit from another defined benefit retirement plan. A
8 member may not establish service credit for educational service to
9 the extent such service purchase would violate Section 415 or any
10 other provision of the Internal Revenue Code.

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

28 (D) An active member on an approved leave of absence from
29 an employer that participates in the system who returns to covered
30 employment within four years may purchase service credit for the
31 period of the approved leave, but may not purchase more than two
32 years of service credit for each separate leave period, by making a
33 an actuarially neutral payment to the system to be determined by
34 the actuary for the board based on the member's current age and
35 service credit, but not less than sixteen percent of the member's
36 current salary or career highest fiscal year salary, whichever is
37 greater, for each year of credit purchased. A member's career
38 highest fiscal year salary shall include the member's salary while
39 participating in the State Optional Retirement Program, the
40 Optional Retirement Program for Teachers and School
41 Administrators, or the Optional Retirement Program for Publicly
42 Supported Four-Year and Postgraduate Institutions of Higher
43 Education if the member has purchased service rendered under any

1 of these programs pursuant to subsection (F) of this section.
2 Periods of less than a year must be prorated.

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

19 (F) An active member may establish service credit for any
20 period of service in which the member participated in the State
21 Optional Retirement Program, the Optional Retirement Program
22 for Teachers and School Administrators, or the Optional
23 Retirement Program for Publicly Supported Four-Year and
24 Postgraduate Institutions of Higher Education, by making a an
25 actuarially neutral payment to the system to be determined by the
26 actuary for the board based on the member's current age and
27 service credit, but not less than sixteen percent of the member's
28 current salary or career highest fiscal year salary, whichever is
29 greater, for each year of credit purchased. A member's career
30 highest fiscal year salary shall include the member's salary while
31 participating in the system or in the State Optional Retirement
32 Program, the Optional Retirement Program for Teachers and
33 School Administrators, or the Optional Retirement Program for
34 Publicly Supported Four-Year and Postgraduate Institutions of
35 Higher Education. Periods of less than a year must be prorated. A
36 member may not establish credit for a period of service for which
37 the member also may receive a retirement benefit from another
38 defined benefit retirement plan. A member may not establish
39 service credit under this subsection to the extent such service
40 purchase would violate Section 415 or any other provision of the
41 Internal Revenue Code. Service purchased under this subsection is
42 'earned service' and counts toward the required five or more years
43 of earned service necessary for benefit eligibility. Compensation

1 earned for periods purchased under this subsection while
2 participating in the State Optional Retirement Program, the
3 Optional Retirement Program for Teachers and School
4 Administrators, or the Optional Retirement Program for Publicly
5 Supported Four-Year and Postgraduate Institutions of Higher
6 Education ~~shall~~ must be treated as earnable compensation and ~~shall~~
7 must be used in calculating a member's average final
8 compensation. A member purchasing service under this subsection
9 who has funds invested in a TIAA Traditional account under a
10 TIAA-CREF Retirement Annuity contract ~~shall be~~ is eligible to
11 make a plan to plan transfer in accordance with the terms of that
12 contract.

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

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

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

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

32 (1) earned service previously withdrawn and reestablished;

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

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

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

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

6 (M) At retirement, after March 31, 1991, but before July 1,
7 2012, a member shall receive credit for not more than ninety days
8 of his unused sick leave from the member's last employer at no
9 cost to the member. The leave must be credited at a rate where
10 twenty days of unused sick leave equals one month of service.
11 This additional service credit may not be used to qualify for
12 retirement.

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

16

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

19

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

- 26 (1) five or more years of earned service;
27 (2) attained the age of sixty years or has twenty-eight or
28 more years of creditable service; and
29 (3) separated from service.

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

- 35 (1) five or more years of earned service;
36 (2) attained the age of sixty years or has thirty or more years
37 of creditable service; and
38 (3) separated from service.

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

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

4
5 “Section 9-1-1515. (A)(1) In addition to other types of
6 retirement provided by this chapter, a Class One or Class Two
7 member may elect early retirement if the member:

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

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

10 ~~(3)~~(c) has at least twenty-five years of creditable service;

11 and

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

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

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

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

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

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

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

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

41 (B)(1) In addition to other types of retirement provided by this
42 chapter, a Class Three member may elect early retirement if the
43 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.

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

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

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

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

- 22 (i) the date the member attains age sixty, or
- 23 (ii) the date the member would have thirty years'

24 creditable service had the member not retired.

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

32
33 SECTION 8. Section 9-1-1550 of the 1976 Code, as last amended
34 by Act 1 of 2001, is further amended by adding two new
35 subsections to read:

36
37 "(C) Upon retirement from service after June 30, 2012, a Class
38 Three member shall receive a service retirement allowance
39 computed as follows:

40 (1) If the member's service retirement date occurs on or after
41 his sixty-fifth birthday or after he has completed thirty or more
42 years of creditable service, the allowance must be equal to one and

1 eighty-two hundredths percent of his average final compensation,
2 multiplied by the number of years of his creditable service.

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

10 (D) To ensure that a member's benefit earned and accrued
11 before July 1, 2012, is protected, the benefit provided to a Class
12 One or a Class Two member must be not less than the benefit that
13 would have been provided to the member had the member retired
14 on June 30, 2012, based on the member's service credit and
15 average final compensation then existing. For purposes of
16 calculating the member's benefit as if the member retired on June
17 30, 2012:

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

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

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

28
29 SECTION 9. Section 9-1-1660(A) of the 1976 Code, as last
30 amended by Act 387 of 2000, is further amended to read:

31
32 "(A)The person nominated by a member to receive the full
33 amount of the member's accumulated contributions if the member
34 dies before retirement may, if the member:

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

36 (2) dies while in service; and

37 (3) has either attained the age of sixty years or has
38 accumulated fifteen years or more of creditable service, elect to
39 receive in lieu of the accumulated contributions an allowance for
40 life in the same amount as if the deceased member had retired at
41 the time of the member's death and had named the person as
42 beneficiary under an election of Option B of Section 9-1-1620(A).
43 For purposes of the benefit calculation, a Class One or Class Two

1 member under age sixty with less than twenty-eight years' credit,
2 or thirty years such credit in the case of a Class Three member, is
3 assumed to be sixty years of age.”

4
5 SECTION 10. Section 9-1-2210 of the 1976 Code, as last
6 amended by Act 112 of 2007, is further amended to read:

7
8 “Section 9-1-2210. (A) An active Class One or Class Two
9 contributing member who is eligible for service retirement under
10 this chapter and complies with the requirements of this article may
11 elect to participate in the Teacher and Employee Retention
12 Incentive Program (program). A member electing to participate in
13 the program retires for purposes of the system. The program
14 participant shall agree to continue employment with an employer
15 participating in the system for a program period, not to exceed five
16 years. The member shall notify the system before the beginning of
17 the program period. Participation in the program does not
18 guarantee employment for the specified program period. Class
19 Three members are not eligible to participate in the program.

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

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

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

41 (C) During the specified program period, the employer shall
42 pay to the system the employer contribution for active members
43 prescribed by law with respect to any program participant it

1 employs, regardless of whether the program participant is a
2 full-time or part-time employee, or a temporary or permanent
3 employee. The program participant shall pay to the system the
4 employee contribution as if the program participant were an active
5 contributing member, but the program participant does not accrue
6 additional service credit in the system for these employer and
7 employee contributions. If an employer who is obligated to the
8 system pursuant to this subsection fails to pay the amount due, as
9 determined by the system, the amount must be deducted from any
10 funds payable to the employer by the State.

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

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

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

- 27 (1) a lump-sum distribution, paying appropriate taxes; or
- 28 (2) to the extent permitted under law, a tax sheltered rollover
29 into an eligible plan.

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

37 Upon termination of employment of members who began
38 participation in the program after June 30, 2005, but before July 1,
39 2012, or who began participation after June 30, 2012, and are
40 entitled to a benefit calculated pursuant to Section 9-1-1550(D),
41 the Retirement Systems shall recalculate the average final
42 compensation of the member to determine the benefit the member
43 receives after participation in the program. The average final

1 compensation calculated at the commencement of the program
2 must be increased by an amount up to and including forty-five
3 days' termination pay for unused annual leave received by the
4 member at termination of employment, divided by three. The
5 member's benefit after participation in the program must be
6 calculated in accordance with Section 9-1-1550, utilizing the
7 recalculated average final compensation determined in this
8 subsection, and the member's service credit, including sick leave,
9 as of the date the member began participation in the program, plus
10 any cost-of-living increases declared during the program period
11 with respect to the amount of the member's deferred program
12 benefit. Upon termination of employment of a member who began
13 participation in the program after June 30, 2012, and who is not
14 entitled to a benefit calculated pursuant to Section 9-1-1550(D),
15 there is no recalculation of the member's benefit and the member
16 must receive the previously determined normal retirement benefit
17 based upon the member's average final compensation and service
18 credit at the time the program period began, plus any applicable
19 cost of living increases declared during the program period.

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

- 24 (1) a lump-sum distribution, paying appropriate taxes; or
- 25 (2) to the extent permitted under law, a tax sheltered rollover
26 into an eligible plan.

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

37 ~~If a program participant who began participation in the program~~
38 ~~before July 1, 2005, elected either Option B or Option C under~~
39 ~~Section 9-1-1620, the average final compensation calculated when~~
40 ~~the member commenced the program must be used in determining~~
41 ~~the survivor benefit. If a program participant who began~~
42 ~~participation in the program after June 30, 2005, elected either~~
43 ~~Option B or C under Section 9-1-1620, then the designated~~

1 ~~survivor beneficiary shall receive a survivor benefit based on a~~
2 ~~recalculated average final compensation. The average final~~
3 ~~compensation calculated at the commencement of the program~~
4 ~~must be increased by an amount up to and including forty five~~
5 ~~days termination pay for unused annual leave received by the~~
6 ~~member's legal representative at the member's death, divided by~~
7 ~~three. The survivor benefit must be calculated in accordance with~~
8 ~~Section 9-1-1550, utilizing the recalculated average final~~
9 ~~compensation determined in this subsection, and the member's~~
10 ~~service credit, including sick leave, as of the date the member~~
11 ~~began participation in the program, plus any cost of living~~
12 ~~increases declared during the program period with respect to the~~
13 ~~amount of the member's deferred program benefit.~~

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

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

24

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

27

28

Part II

29

Retirement System for Members of the General Assembly of the State of South Carolina

30

31

32

33

34

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

36

37

38

39

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42

43

“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

1 9-9-40(3), and has either attained the age of sixty years or
2 completed thirty years of credited service.

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

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

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

27

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

33

34

Part III

35

South Carolina Police Officers Retirement System

36

37

38

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

40

41

"Section 9-11-312. (A)(1) The retirement allowance received
42 by retirees and their surviving annuitants pursuant to the provisions
43 of this chapter, inclusive of Section 9-11-140 are subject to an

1 annual adjustment calculated as provided in this subsection.
2 Annually in November the board shall subtract the assumed annual
3 rate of return on the investments of the assets of the South Carolina
4 Police Officers Retirement System from the five-year average
5 investment return of the South Carolina Police Officers Retirement
6 System. If the difference of that subtraction is a positive
7 percentage, then retirement allowances paid must be increased by
8 the same percentage, but not more than two and one-half percent.
9 If the annual calculation percentage results in a positive
10 percentage, but the actual rate of return on the system's
11 investments for the preceding plan year was less than zero, an
12 increase may not be granted. In no case may the calculation result
13 in an adjustment that decreases benefits. If the annual calculation
14 results in an increased retirement allowance, the board, by
15 December thirty-first following the calculation, by resolution, shall
16 direct the increase.

17 (2) For purposes of this subsection, the 'five-year average
18 investment return' means the average of the investment returns of
19 the most recent five plan years ending on June thirtieth before the
20 November calculation date as determined by the board.

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

30

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

33

34 "~~(7)(a)~~ 'Average final compensation' after July 1, 1986, but
35 before July 1, 2012, means the average annual compensation of a
36 member during the twelve consecutive quarters of the member's
37 creditable service on which regular contributions as a member
38 were made to the system producing the highest average; a quarter
39 means a period January through March, April through June, July
40 through September, or October through December. An amount up
41 to and including forty-five days' termination pay for unused annual
42 leave at retirement may be added to the average final
43 compensation. Average final compensation for an elected official

1 may be calculated as the average annual earnable compensation for
2 the thirty-six consecutive months prior to the expiration of his term
3 of office.

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

13
14 SECTION 15. Section 9-11-50 of the 1976 Code, as last
15 amended by Act 311 of 2008, is further amended to read:

16
17 "Section 9-11-50. (A) An active member may establish
18 service credit for any period of paid public service by making a an
19 actuarially neutral payment to the system to be determined by the
20 actuary for the board, based on the member's current age and
21 service credit, ~~board,~~ but not less than sixteen percent of the
22 member's current salary or career highest fiscal year salary,
23 whichever is greater, for each year of credit purchased. Periods of
24 less than a year must be prorated. A member may not establish
25 credit for a period of public service for which the member also
26 may receive a retirement benefit from another defined benefit
27 retirement plan. A member may not establish service credit for
28 public service to the extent such service purchase would violate
29 Section 415 or any other provision of the Internal Revenue Code.

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

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

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

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

30 (F) An active member may establish service credit for any
31 period of service in which the member participated in the State
32 Optional Retirement Program, the Optional Retirement Program
33 for Teachers and School Administrators, or the Optional
34 Retirement Program for Publicly Supported Four-Year and
35 Postgraduate Institutions of Higher Education, by making a an
36 actuarially neutral payment to the system to be determined by the
37 actuary for the board, based on the member's current age and
38 service credit, ~~board,~~ but not less than sixteen percent of the
39 member's current salary or career highest fiscal year salary,
40 whichever is greater, for each year of credit purchased. Periods of
41 less than a year must be prorated. A member may not establish
42 credit for a period of service for which the member also may
43 receive a retirement benefit from another defined benefit

1 retirement plan. A member may not establish service credit under
2 this subsection to the extent such service purchase would violate
3 Section 415 or any other provision of the Internal Revenue Code.
4 Service purchased under this subsection is 'earned service' and
5 counts toward the required five or more years of earned service
6 necessary for benefit eligibility. Compensation earned while
7 participating in the State Optional Retirement Program, the
8 Optional Retirement Program for Teachers and School
9 Administrators, or the Optional Retirement Program for Publicly
10 Supported Four-Year and Postgraduate Institutions of Higher
11 Education is not earnable compensation under the system and shall
12 not be used in calculating a member's average final compensation.
13 A member purchasing service under this subsection who has funds
14 invested in a TIAA Traditional account under a TIAA-CREF
15 Retirement Annuity contract shall be eligible to make a plan to
16 plan transfer in accordance with the terms of that contract.

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

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

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

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

- 36 (1) earned service previously withdrawn and reestablished;
37 (2) service rendered while participating in the State Optional
38 Retirement Program, the Optional Retirement Program for
39 Teachers and School Administrators, or the Optional Retirement
40 Program for Publicly Supported Four-Year and Postgraduate
41 Institutions of Higher Education that has been purchased pursuant
42 to subsection (F); or

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

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

7 (L) At retirement, after March 31, 1991, but before July 1,
8 2012, a member shall receive credit for not more than ninety days
9 of his unused sick leave from the member's last employer at no
10 cost to the member. The leave must be credited at a rate where
11 twenty days of unused sick leave equals one month of service.
12 This additional service credit may not be used to qualify for
13 retirement.

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

17 (N) An employee drawing workers' compensation who is on a
18 leave of absence for a limited period may voluntarily contribute on
19 his contractual salary, to be matched by the employer."
20

21 SECTION 16. Section 9-11-60(3) of the 1976 Code, as last
22 amended by Act 387 of 2000, is further amended to read:
23

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

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

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

36 (c) the member's average final compensation must be
37 computed using the twelve consecutive quarters of the member's
38 creditable service before July 1, 2012, on which regular
39 contributions as a member were made to the system producing the
40 highest such average.”
41

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

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“(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.”

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

4
5 Part IV

6
7 Provisions Application to More Than One Retirement System

8
9 SECTION 20. Article 3, Chapter 16, Title 9 of the 1976 Code is
10 amended by adding:

11
12 “Section 9-16-335. For all purposes of this title, the assumed
13 annual rate of return on the investments of the retirement system
14 must be established by the General Assembly pursuant to this
15 section. Effective July 1, 2012, the assumed annual rate of return
16 on retirement system investments is seven and one-half percent.”

17
18 SECTION 21. A. Section 9-1-1135 of the 1976 Code, as added
19 by Act 311 of 2008, is amended to read:

20
21 “Section 9-1-1135. (A) Interest ~~shall~~ must be credited to the
22 account of each member once each year as of June thirtieth, on the
23 basis of the balance in the account of each member as of the
24 previous June thirtieth. Upon the death, retirement, or termination
25 of a member, interest ~~shall~~ must be figured to the end of the month
26 immediately preceding the date of refund or retirement, interest
27 being based on the balance in ~~such~~ the member’s account as of the
28 June thirtieth immediately preceding the date of refund or
29 retirement.

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

35
36 B. Section 9-8-185 of the 1976 Code, as added by Act 311 of 2008,
37 is amended to read:

38
39 “Section 9-8-185. (A) Interest ~~shall~~ must be credited to the
40 account of each member once each year as of June thirtieth, on the
41 basis of the balance in the account of each member as of the
42 previous June thirtieth. Upon the death, retirement, or termination
43 of a member, interest ~~shall~~ must be figured to the end of the month

1 immediately preceding the date of refund or retirement, interest
2 being based on the balance in ~~such~~ the member's account as of the
3 June thirtieth immediately preceding the date of refund or
4 retirement.

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

10
11 C. Section 9-9-175 of the 1976 Code, as added by Act 311 of 2008,
12 is amended to read:

13
14 "Section 9-9-175. (A) Interest ~~shall~~ must be credited to the
15 account of each member once each year as of June thirtieth, on the
16 basis of the balance in the account of each member as of the
17 previous June thirtieth. Upon the death, retirement, or termination
18 of a member, interest ~~shall~~ must be figured to the end of the month
19 immediately preceding the date of refund or retirement, interest
20 being based on the balance in ~~such~~ the member's account as of the
21 June thirtieth immediately preceding the date of refund or
22 retirement.

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

28
29 D. Section 9-11-265 of the 1976 Code, as added by Act 311 of
30 2008, is amended to read:

31
32 "Section 9-11-265. (A) Interest ~~shall~~ must be credited to the
33 account of each member once each year as of June thirtieth, on the
34 basis of the balance in the account of each member as of the
35 previous June thirtieth. Upon the death, retirement, or termination
36 of a member, interest ~~shall~~ must be figured to the end of the month
37 immediately preceding the date of refund or retirement, interest
38 being based on the balance in ~~such~~ the member's account as of the
39 June thirtieth immediately preceding the date of refund or
40 retirement.

41 (B) Notwithstanding subsection (A), interest must not be
42 credited to an inactive member account. For purposes of this
43 subsection, a member account becomes inactive on July first if no

1 contributions were made to the account in the preceding twelve
2 months.”

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Part V

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6

Miscellaneous, Effective Date

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

19

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

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