

**No. 139. An act relating to amending miscellaneous provisions in Vermont's public retirement systems.**

(H.778)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 3 V.S.A. § 455(a)(4)(E) is added to read:

(E) For group A, C, or F members who retire on or after July 1, 2012, an increase in compensable hours in any year used to calculate average final compensation that exceeds 120 percent of average compensable hours, shall be excluded from that year when calculating average final compensation.

Sec. 2. 3 V.S.A. § 455(a)(26) and (27) are added to read:

(26) "Average compensable hours" shall mean average annual compensable hours for a period of five full years immediately preceding the years used to determine average final compensation. If a member's compensable hours in any year used to calculate average final compensation exceeds 120 percent of average compensable hours, the compensation for hours worked in excess of 120 percent shall be excluded from average final compensation for that particular year. Average compensable hours form the benchmark to preclude abuses by implementing a 20-percent limit on increases in compensable hours in any year used to calculate average final compensation.

(27) "Compensable hours" shall mean all hours worked during a fiscal year and shall include the following types of paid time: regular hours worked, overtime hours worked, and paid leave.

Sec. 2a. 3 V.S.A. § 470 is amended to read:

§ 470. POST-RETIREMENT ADJUSTMENTS TO RETIREMENT  
ALLOWANCES

(a) For group A, group C<sub>2</sub> and group D members, as of June 30 in each year, commencing June 30, 1972, a determination shall be made of the increase ~~or decrease~~, to the nearest one-tenth of a percent, in the ratio of the average of the Consumer Price Index for the month ending on that date to the average of said index for the month ending on June 30, 1971<sub>2</sub> or the month ending on June 30 of the most recent year subsequent thereto as of which an increase ~~or decrease~~ in retirement allowance was made. If the increase ~~or decrease~~, so determined, equals or exceeds one percent, the retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31st shall be increased ~~or decreased, as the case may be~~, by an equal percentage. Such increase or decrease shall commence on the January 1st immediately following such December 31st. Such percentage increase ~~or decrease~~ shall also be made in the retirement allowance payable to a beneficiary in receipt of an allowance under an optional election, provided the member on whose account the allowance is payable and such other person

shall have received a total of at least 12 monthly payments by such December 31st. The maximum adjustment of any retirement allowance resulting from any such determination shall be five percent and the minimum shall be one percent, and no retirement allowance shall be reduced below the amount payable to the beneficiary without regard to the provisions of this section.

(b) For group F members, as of June 30 in each year, commencing January 1, 1991, a determination shall be made of the increase ~~or decrease~~, to the nearest one-tenth of a percent of the Consumer Price Index for the preceding fiscal year. The retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31st shall be increased ~~or decreased, as the case may be~~, by an amount equal to one-half of the percentage increase ~~or decrease~~. Commencing January 1, 2014, the retirement allowance of each beneficiary who was an active contributing member of the group F plan on or after June 30, 2008<sub>2</sub>, and who retires on or after July 1, 2008<sub>2</sub>, shall be increased ~~or decreased, as the case may be~~, by an equal percentage of the Consumer Price Index for the preceding year. The increase ~~or decrease~~ shall commence on the January 1st immediately following such December 31st. The adjustment shall apply to group F members receiving an early retirement allowance only in the year following attainment of age 62, provided the member has received benefits for at least 12 months as of December 31 of the year preceding any January adjustment. The maximum

adjustment of any retirement allowance resulting from any such determination shall be five percent and the minimum shall be one percent, and no retirement allowance shall be reduced below the amount payable to the beneficiary without regard to the provisions of this section.

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(e) No adjustment shall be made pursuant to this section in January if the Consumer Price Index as of the previous June 30th is a negative rate.

Sec. 2b. STATE EMPLOYEES; AVERAGE FINAL COMPENSATION

Contingent upon the implementation of a plan to make this section cost-neutral by achieving sufficient ongoing savings in the Vermont state employees' retirement system, developed by the state treasurer, the Vermont State Employees' Association, and the Vermont Troopers' Association, the salary used to determine a state employee's average final compensation for fiscal years 2011 and 2012, for an employee retiring on or after June 30, 2011, shall be no less than the employee's salary paid during fiscal year 2010 when calculating the employee's retirement allowance.

Sec. 3. 3 V.S.A. § 522 is amended to read:

§ 522. VERMONT PENSION INVESTMENT COMMITTEE

(a) There is created the Vermont pension investment committee to ~~be~~ comprised of six comprise seven members as follows:

(1) one member and one alternate, who may or may not be trustees of the board of the Vermont state employees' retirement system, elected by the employee and retiree members of that board;

(2) one member and one alternate, who may or may not be trustees of the board of the state teachers' retirement system of Vermont, elected by the employee and retiree members of that board;

(3) one member and one alternate, who may or may not be trustees of the board of the Vermont municipal employees' retirement system, elected by the municipal employee and municipal official members of that board;

(4) two members and one alternate, appointed by the governor; ~~and~~

(5) the state treasurer or designee; and

(6) one member, appointed by the other six voting members of the committee, who shall serve as chair of the committee and at the pleasure of the committee.

\* \* \*

(d) The chair of the Vermont pension investment committee shall be a nonvoting member, except in the case of a tie vote.

(e) ~~The members of the~~ Vermont pension investment committee shall elect a ~~chair and~~ vice chair from among its members.

~~(e)~~(f) Four members of the committee shall constitute a quorum. If a member is not in attendance, the alternate of that member shall be eligible to

act as a member of the committee during the absence of the member. Four concurring votes shall be necessary for a decision of the committee at any meeting of the committee. The committee shall be attached to the office of the state treasurer for administrative support, and the expenses of the committee and the treasurer's office in support of the committee shall be paid proportionately from the funds of the three retirement systems and any individual municipalities that have been allowed to invest their retirement funds pursuant to subsection 523(a) of this title.

~~(f)~~(g) Public employee members and alternates shall be granted reasonable leave time by their employers to attend committee meetings and committee-related educational programs.

~~(g)~~(h) The committee shall provide an annual report to the respective authorities responsible for electing and appointing members and alternates regarding attendance at committee meetings and relevant educational programs attended.

~~(h)~~(i) A vacancy of an elected or appointed member or alternate shall be filled for the remainder of the term by the authority responsible for electing or appointing that member or alternate.

Sec. 4. 3 V.S.A. § 523 is amended to read:

§ 523. VERMONT PENSION INVESTMENT COMMITTEE; DUTIES

(a) The Vermont pension investment committee shall be responsible for the investment of the assets of the state teachers' retirement system of Vermont, the Vermont state employees' retirement system, and the Vermont municipal employees' retirement system pursuant to section 472 of this title, ~~section 16 V.S.A. § 1943 of Title 16~~, and ~~section 24 V.S.A. § 5063 of Title 24~~. The committee shall strive to maximize total return on investment, within acceptable levels of risk for public retirement systems, in accordance with the standards of care established by the prudent investor rule under ~~chapter 147 of Title 9~~ 14A V.S.A. § 902. The committee may, in its discretion, subject to approval by the attorney general, also enter into agreements with municipalities administering their own retirement systems to invest retirement funds for those municipal pension plans. The state treasurer shall serve as the custodian of the funds of all three retirement systems.

(b) Members and alternates of the committee who are not public employees shall be entitled to compensation as set forth in ~~section 32 V.S.A. § 1010 of Title 32~~ and reimbursement for all necessary expenses that they may incur through service on the committee from the funds of the retirement systems. The chair of the committee may be compensated from the funds at a level not

to exceed one-third of the salary of the state treasurer, as determined by the other members of the committee.

(c) The committee shall keep a record of all its proceedings which shall be open for public inspection.

(d) The committee ~~may~~ shall formulate policies and procedures deemed necessary and appropriate to carry out its functions. ~~Notwithstanding the foregoing, the committee shall consider, consistent with chapter 147 of Title 9, subsection 472a(b) of this title, 16 V.S.A. § 1943a(b), and 24 V.S.A. § 5063a(b), investing up to \$17,500,000.00 with the Vermont housing finance agency to assist in its homeownership financing programs for persons and families of low and moderate income as defined in 10 V.S.A. § 601(11),~~ including a written statement of the responsibilities of and expectations for the chair of the committee.

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Sec. 5. 16 V.S.A. § 1937(c)(1)(C), as amended by Sec. 3 of No. 74 of the Acts of the 2010 General Assembly, is amended to read:

(C) 1-2/3 percent of the member's average final compensation multiplied by years of creditable service, two of which shall be membership service, on or after July 1, 2010, to a maximum of 53.34 percent of average final compensation;

Sec. 6. 16 V.S.A. § 1944(c)(12)(A), as amended by Sec. 6 of No. 74 of the Acts of the 2010 General Assembly, is amended to read:

(12)(A) Payment of a portion of the cost of health and medical benefits provided by subsection 1942(p) of this title for retired members shall be made from the medical account created by subsection (i) of this section. The board shall determine the total costs of the applicable standard plan for a retired member and of the applicable standard plan for a retired member and spouse, and the board shall pay the following portion of those costs:

(i) 80 percent of the cost for a retired member who has at least 10 years of creditable service as of July 1, 2010, and fewer than 25 years of creditable service at the time of retirement;

(ii) 80 percent of the cost for a retired member and spouse if the retired member has at least 10 years of creditable service as of July 1, 2010, and at least 25 years of creditable service at the time of retirement;

(iii) 60 percent of the cost for a retired member who has fewer than 10 years of creditable service as of July 1, 2010, and 15 or more but fewer than 20 years of creditable service at the time of retirement;

(iv) 70 percent of the cost for a retired member who has fewer than 10 years of creditable service as of July 1, 2010, and 20 or more but fewer than 25 years of creditable service at the time of retirement; and

(v) 80 percent of the cost for a retired member and spouse if:

(I) the retired member has 10 or more but fewer than 15 years of creditable service as of July 1, 2010, and at least 25 years of creditable service at the time of retirement; or

(II) the retired member has 15 or more but fewer than 25 years of creditable service as of July 10, 2010, and at least 10 additional years of creditable service at the time of retirement; or

(III) the retired member has 25 or more but fewer than 30 years of creditable service as of July 1, 2010, and at least 35 years of creditable service at the time of retirement; or

(IV) the retired member has at least 30 years of creditable service as of July 1, 2010, and at least five additional years of creditable service at the time of retirement; and

(V) the service was not purchased, restored, granted, or transferred on or after July 1, 2010.

Sec. 6a. 16 V.S.A. § 1949 is amended to read:

§ 1949. POST-RETIREMENT ADJUSTMENTS TO RETIREMENT

ALLOWANCES

(a) For all group A members, as of June 30 in each year, beginning June 30, 1972, the board shall determine the increase ~~or decrease~~, to the nearest one-tenth of one percent, in the ratio of the average of the consumer price index for the month ending on that date to the average of the index for the

month ending on June 30, 1971, or the month ending on June 30 of the most recent year subsequent thereto as to which an increase ~~or decrease~~ in retirement allowance was made. If the increase ~~or decrease~~, so determined, equals or exceeds one percent, the retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31 shall be increased ~~or decreased~~, ~~as the case may be~~, by an equal percentage. The increase ~~or decrease~~ shall begin on January 1 immediately following that December 31. An equivalent percentage increase or decrease shall also be made in the retirement allowance payable to a beneficiary in receipt of an allowance under an optional election, provided the member on whose account the allowance is payable and such other person shall have received a total of at least 12 monthly payments by such December 31. The maximum adjustment of any retirement allowance in any calendar year resulting from any determination under this section shall be five percent and the minimum shall be one percent, and no retirement allowance shall be reduced below the amount payable to the beneficiary without regard to the provisions of this section.

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(d) No adjustment shall be made pursuant to this section in January if the Consumer Price Index as of the previous June 30th is a negative rate.

Sec. 6b. 16 V.S.A. § 1949(b), as amended by Sec. 7 of No. 74 of the Acts of the 2010 General Assembly, is amended to read:

(b) For group C members, as of June 30 in each year, commencing June 30, 1981, a determination shall be made of the increase ~~or decrease~~, to the nearest one-tenth of a percent of the consumer price index for the preceding fiscal year. The retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31st shall be increased ~~or decreased~~, as the case may be, by an amount equal to one-half of the percentage increase ~~or decrease~~. The increase ~~or decrease~~ shall commence on the January 1st immediately following that December 31st. The adjustment shall apply to group C members having attained the age of 57 or completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following attainment of age 62, and shall apply to group C members not having attained the age of 57 or having completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following the member's attainment of age 65 or when the combination of the member's age and years of creditable service totals 90, provided the member has received benefits for at least 12 months as of December 31 of the year preceding any January adjustment. The maximum adjustment of any retirement allowance resulting from any such determination shall be five percent and the minimum

shall be one percent, and no retirement allowance shall be reduced below the amount payable to the beneficiary without regard to the provisions of this section.

Sec. 7. 16 V.S.A. § 1949(b), as amended by Sec. 7 of No. 74 of the Acts of the 2010 General Assembly, is amended to read:

(b) For group C members, as of June 30 in each year, commencing June 30, 1981, a determination shall be made of the increase or decrease, to the nearest one-tenth of a percent of the consumer price index for the preceding fiscal year. The retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31st shall be increased or decreased, as the case may be, by an amount equal to one-half of the percentage increase or decrease. The increase or decrease shall commence on the January 1st immediately following that December 31st. The adjustment shall apply to group C members having attained the age of 57 or completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following attainment of age 62, and shall apply to group C members not having attained the age of 57 or having completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following the member's attainment of age 65 ~~or when the combination of the member's age and years of creditable service totals 90~~, provided the member has received

benefits for at least 12 months as of December 31 of the year preceding any January adjustment. The maximum adjustment of any retirement allowance resulting from any such determination shall be five percent and the minimum shall be one percent, and no retirement allowance shall be reduced below the amount payable to the beneficiary without regard to the provisions of this section.

Sec. 8. 24 V.S.A. § 5062 is amended to read:

§ 5062. RETIREMENT BOARD; MEDICAL BOARD; ACTUARY; RATES  
OF CONTRIBUTION; SAFEKEEPING OF SECURITIES

(a)(1) The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this chapter are hereby vested in a board of five trustees, known as the retirement board. The board shall consist of:

(A) ~~the representative designated by the governor, the state treasurer;~~

(B) ~~and two municipal employees~~ two employee representatives who shall at all times during their term of office both be contributing members of the system and have completed five years of creditable service, elected by the membership of the system; and

(C) ~~one municipal official~~ employer representative who shall at all times during their term of office be a member of a governing body, the chief executive officer, or a supervisor as defined in 21 V.S.A. § 1502(13), of an

employer participating in the system, elected by the membership of the system governing bodies of the system employers; and

(D) one employer representative who shall at all times during their term of office be a member of a governing body, the chief executive officer, or a supervisor as defined in 21 V.S.A. § 1502(13), of an employer participating in the system, appointed by the governor from a list of not less than three nominations jointly submitted by the Vermont League of Cities and Towns and the Vermont School Boards Association.

(2) An individual shall not be eligible to serve as an employee representative if the individual is eligible to serve as an employer representative.

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(n) The board shall determine the election procedures by which the two ~~municipal employees and one municipal official~~ employee representatives and employer representative elected by the governing bodies of the system employers who are members of the board are elected. Elections shall be held to take effect on July 1, 1978 and triennially thereafter for the first municipal employee's seat; on July 1, 1979 and triennially thereafter for the municipal official's seat; and on July 1, 1980 and triennially thereafter for the second ~~municipal employee's seat~~ 2010, for the first employee representative and employer representative elected by the governing bodies of the system

employers and every four years thereafter; and on July 1, 2012, for the second employee representative and employer representative appointed by the governor and every four years thereafter. The term in office for each elected member of the board shall be ~~three~~ four years. Vacancies of an elected board member's seat in midterm shall be filled by ~~a person~~ an individual eligible for election to that seat designated by the remaining members of the board.

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Sec. 8a. VMERS BOARD OF TRUSTEES TRANSITIONAL PROVISIONS

The representative designated by the governor under the provisions of 24 V.S.A. § 5062(a) prior to the effective date of this act shall cease to serve on the board upon the effective date of Sec. 8 and this section of this act. The municipal employee representative whose term expires on June 30, 2011, under the provisions of 24 V.S.A. § 5062(a) prior to the effective date of this act shall, upon the effective date of this act, fill the position of employee representative until the election effective July 1, 2012. The municipal official serving under the provisions of 24 V.S.A. § 5062(a) prior to the effective date of this act shall serve until the employer representative appointed by the governor is appointed.

Sec. 9. 24 V.S.A. § 5064(b) is amended to read:

(b) Member savings. Contributions deducted from the compensation of members together with any member contributions transferred from a

predecessor system shall be accumulated in the fund and separately recorded for each member. Contributions shall be made by group A members at the rate of three percent of earnable compensation. Contributions shall be made by group B members at the rate of five percent of earnable compensation. Contributions shall be made by group C and group D members at a rate of 11 percent of earnable compensation. Additionally, if an employee remains in group C and is employed by an employer who elects to revoke its group C membership in accordance with subsection 5068(f) of this title, the rate established in this subsection will be adjusted. This adjustment shall be determined by subtracting the group B rate, or if not applicable, the group A rate determined in subdivision (c)(1) of this section from the group C rate determined in subdivision (c)(1) of this section. ~~Notwithstanding the provisions of this subsection, for the period July 1, 2000 through June 30, 2010, contributions shall be made by group A members at the rate of two and one half percent of earnable compensation, by group B members at the rate of four and one half percent of earnable compensation, and by group C members at the rate of nine percent of earnable compensation.~~

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#### Sec. 10. VERMONT MUNICIPAL RETIREMENT FUND

Notwithstanding the provisions of 24 V.S.A. § 5064(b), for the period July 1, 2010 through June 30, 2011, contributions shall be made by group A

members at the rate of two and one-half percent of earnable compensation, by group B members at the rate of four and one-half percent of earnable compensation, and by group C members at the rate of nine and one quarter percent of earnable compensation.

Sec. 10a. 24 V.S.A. § 5067 is amended to read:

§ 5067. COST OF LIVING ADJUSTMENTS

(a) For members, as of June 30 in each year, commencing June 30, 1987, a determination shall be made of the increase ~~or decrease~~, to the nearest one-tenth of a percent of the Consumer Price Index for the preceding fiscal year. The retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31 shall be increased ~~or decreased~~, as the case may be, by an amount equal to one-half of the percentage increase ~~or decrease~~. The increase ~~or decrease~~ shall commence on the January 1 immediately following such December 31. The adjustment shall apply to members of the group A, B, or D plans receiving an early retirement allowance only in the year following attainment of normal retirement age, provided the member has received benefits for at least 12 months as of December 31 of the year preceding any January adjustment. The maximum adjustment of any retirement allowance resulting from any such determination shall be two percent for group A members and three percent for group B, C, and D members, and no retirement allowance shall be reduced below the

amount payable to the beneficiary without regard to the provisions of this section.

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(e) No adjustment shall be made pursuant to this section in January if the Consumer Price Index as of the previous June 30th is a negative rate.

Sec. 11. STATE TEACHERS' RETIREMENT SYSTEM OF VERMONT;

MEMBERSHIP

Notwithstanding any provision of law to the contrary, amendments to 16 V.S.A. § 1931(20) in Sec. 5 of No. 24 of the Acts of 2009 (retirement system available only to licensed teachers) shall not apply to:

(1) Any person who was a member of the state teachers' retirement system of Vermont under chapter 55 of Title 16 on June 30, 2009.

(2) Any person who signed a contract prior to July 1, 2009, for employment in an independent school beginning on that date if the contract included provisions ensuring membership in the state teachers' retirement system of Vermont under chapter 55 of Title 16.

Sec. 12. STATE TEACHERS' RETIREMENT SYSTEM OF VERMONT;

CREDITABLE SERVICE

Any member of the state teachers' retirement system of Vermont whose creditable service is greater than 24.90 but less than 25.00 years on June 30, 2010, shall be granted, upon written approval from the member, sufficient

creditable service to equal 25.00 years on June 30, 2010. Any member of the state teachers' retirement system of Vermont who has reached the normal retirement age and whose creditable service is greater than or equal to 9.90 but less than 10 years on June 30, 2010, shall be granted, upon written approval from the member, sufficient creditable service to equal 10 years on June 30, 2010.

Sec. 13. REPEAL

(a) Sec. 1, 3 V.S.A. § 455(a)(4)(E), and Sec. 2, 3 V.S.A. § 455(a)(26) and (27), shall be repealed on July 1, 2014.

(b) Secs. 2a, 6a, 6b, and 10 shall be repealed on July 1, 2011, and the amendments to the statutory provision set forth in those Secs. shall revert to the language in existence prior to the effective date of this act, except to the extent that 16 V.S.A. § 1949(b) has otherwise been amended by Sec. 7 of this Act.

Sec. 14. EFFECTIVE DATES

(a) Secs. 8 and 8a shall take effect on June 30, 2010.

(b) This section and Sec. 11 of this act shall take effect upon passage.

Date on which the governor allowed the bill to become law without his signature: May 29, 2010