

Senate proposal of amendment

H. 449

An act relating to the membership and duties of the Vermont Pension Investment Commission and the creation of the Pension Benefits, Design, and Funding Task Force

The Senate proposes to the House to amend the bill as follows:

First: By striking out Sec. 1, 3 V.S.A. chapter 17, in its entirety and inserting in lieu thereof the following:

CHAPTER 17. VERMONT STATE POLICE AND MOTOR VEHICLE INSPECTORS' RETIREMENT SYSTEM VERMONT PENSION INVESTMENT COMMISSION

§ 521. DEFINITIONS

As used in this chapter,:

(1) “Committee” “Commission” means the Vermont Pension Investment Committee Commission.

(2) “Financial expert” means an individual with material expertise and experience in institutional fund management, or other significant pension or other relevant financial expertise.

(3) “Independent” means an individual who does not have a direct or indirect material interest in the Plans.

(A) An individual has a direct or indirect material interest in the Plans if:

(i) the individual is a beneficiary of any of the Plans; or

(ii) the individual or the individual's spouse, parent, child, sibling, or in-law is or has been within the past five years an employee, director, officer, owner of a publicly traded company, consultant, manager, or had another material role with an entity servicing the Plans.

(B) An individual is considered an owner of a publicly traded company if the individual owns, directly or indirectly, five percent or more of a class of the company's equity securities registered under the Securities Exchange Act of 1934 (15 U.S.C. § 78 et seq.), as amended.

(4) “Plans” means the Vermont State Teachers' Retirement System, the Vermont State Employees' Retirement System, and the Vermont Municipal Employees' Retirement System pursuant to section 472 of this title, 16 V.S.A. § 1943, and 24 V.S.A. § 5063.

§ 522. VERMONT PENSION INVESTMENT COMMITTEE COMMISSION

(a) Members. There is created the Vermont Pension Investment ~~Committee~~ Commission, an independent commission, to comprise ~~seven~~ nine 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~~ the Board of the Vermont State Employees' Retirement System;

(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~~ the Board of the Vermont State Teachers' Retirement System;

(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~~ the Board of the Vermont Municipal Employees' Retirement System;

(4) ~~two members and one alternate, who shall each be a financial expert and independent,~~ appointed by the Governor;

(5) ~~the State Treasurer or designee,~~ an ex-officio voting member; and

(6) ~~one member, appointed by the other six voting~~ eight members of the ~~Committee~~ Commission, who shall serve as Chair of the ~~Committee~~ Commission and at the pleasure of the ~~Committee~~ Commission;

(7) ~~one member representing a municipal employer, appointed by the Executive Director of the Vermont League of Cities and Towns;~~ and

(8) ~~one member representing a school employer, appointed by the Vermont School Boards Association.~~

(b) Training. ~~An authority responsible for electing or appointing a member or alternate shall consider the experience and knowledge of potential members and alternates consistent with the purposes of the Committee, and shall inform potential members and alternates that they shall participate in~~ Members and alternates of the Commission shall be required to participate in onboarding and ongoing periodic training in investments, securities, and fiduciary responsibilities as directed by the ~~Committee~~ Commission. The Commission shall provide an annual report to the respective authorities responsible for electing and appointing members and alternates regarding attendance at Commission meetings and relevant educational programs attended.

(c) ~~Initially, one appointee and the alternate appointee of the Governor shall serve a two-year term, and the second appointee shall serve for a four-year term. Thereafter, the Governor's appointees and alternate appointee shall serve for four-year terms. Initially, the member and alternate chosen by the~~

~~Vermont Municipal Employees' Retirement Board shall serve for a two-year term, the member and alternate chosen by the Vermont State Teachers' Retirement Board shall serve for a three-year term and the member and alternate chosen by the Vermont State Employees' Retirement Board shall serve for a four-year term. Thereafter, all members and alternates shall serve for four-year terms. Member terms.~~

(1) Except as provided in subdivision (2) of this section and for the ex-officio members of the Commission, all members and alternates of the Commission shall serve staggered four-year terms. A vacancy created before the expiration of a term shall be filled in the same manner as the original appointment for the unexpired portion of the term. A member or alternate appointed to fill a vacancy created before the expiration of a term shall not be deemed to have served a term for the purpose of this subsection. Members and alternates of the Commission shall be eligible for reappointment and shall serve not more than three terms; provided, however, that a single term served as an alternate shall not be used to calculate a member's total term limit. Members and alternates of the Commission may be removed only for cause. The Commission shall adopt rules pursuant to chapter 25 of this title to define the basis and process for removal.

(2) If the Chair is unable to perform his or her duties, the Commission shall elect an interim chair who shall be a financial expert and independent.

(3) Terms shall end on June 30 with new terms beginning on July 1.

(4) Notwithstanding subdivision (3) of this subsection, members and alternates shall serve until their successors are appointed subject to the term limits provided in this subsection.

(d) Chair and vice chair.

(1)(A) The Chair of the Vermont Pension Investment ~~Committee~~ Commission shall be a financial expert and independent, and shall have the financial, investment, leadership, and governance expertise as required by policies adopted by the Commission.

(B) The Chair shall be a nonvoting member, except in the case of a tie vote.

(2) The Vermont Pension Investment Commission shall elect a vice chair from among its members.

~~(e) The Vermont Pension Investment Committee shall elect a vice chair from among its members~~ Eligibility. No legislator who is currently serving in the General Assembly shall serve on the Commission.

(f) ~~Four~~ Meetings.

(1) Five members of the ~~Committee~~ Commission shall constitute a

quorum.

(2) If a member is not in attendance, the alternate of that member shall be eligible to act as a member of the ~~Committee~~ Commission during the absence of the member.

(3) ~~Four~~ Five concurring votes shall be necessary for a decision of the ~~Committee~~ Commission at any meeting of the ~~Committee~~ Commission, except that any decision of the Commission relating to setting actuarial assumptions pursuant to subdivision 523(b)(1) of this title shall require six concurring votes. ~~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.~~

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

(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~~ Compensation and reimbursements. Members and alternates of the Commission who are not public employees shall be entitled to compensation as set forth in 32 V.S.A. § 1010 and reimbursement for all necessary expenses that they may incur through service on the Commission from the funds of the retirement systems. The Chair of the Commission 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 Commission.

(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~~ Assistance and expenses.

(1) The Commission shall have the administrative and technical support of the Office of the State Treasurer.

(2) The Commission may collect proportionally 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, any expenses incurred that are associated with carrying out its duties, and any expenses incurred by the Treasurer's office in support of the Commission.

(3) The Attorney General shall serve as legal advisor to the Commission.

§ 523. VERMONT PENSION INVESTMENT COMMITTEE
COMMISSION; DUTIES

(a) General. The Vermont Pension Investment ~~Committee~~ Commission shall be responsible for the investment of the assets of the ~~State Teachers' Retirement System of Vermont~~ Vermont State Teachers' Retirement System, the Vermont State Employees' Retirement System, and the Vermont Municipal Employees' Retirement System pursuant to section 472 of this title, 16 V.S.A. § 1943, and 24 V.S.A. § 5063. The ~~Committee~~ Commission 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 14A V.S.A. § 902. The ~~Committee~~ Commission 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. The ~~Committee~~ Commission may, in its discretion, also enter into agreements with the State Treasurer to invest the State Employees' Postemployment Benefits Trust Fund, established in ~~3 V.S.A. § section~~ 479a of this title, and the Retired Teachers' Health and Medical Benefits Fund, established in 16 V.S.A. § 1944b.

(b) ~~Members and alternates of the Committee who are not public employees shall be entitled to compensation as set forth in 32 V.S.A. § 1010 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~~ Powers and duties. The Commission shall have the following duties:

(1) Set the following actuarial assumptions:

(A) the investment rate of return;

(B) the inflation rate; and

(C) the smoothing rate method used for the actuarial valuation of assets and returns.

(2) Not more than 180 days after the end of each fiscal year, conduct an asset allocation study that reviews the expected return of each fund, including a risk analysis using best practices methodologies to estimate potential risks to the fund's asset values over a five-, 10-, and 20-year period, and the remainder of the statutory amortization period. The study shall be submitted to the House and Senate Committees on Government Operations and the Office of the Governor and made publicly available within 10 days of completion.

(c) Recordkeeping. The Committee Commission shall keep a record of all its proceedings, which shall be open for public inspection.

(d) Policies. The Committee Commission shall formulate policies and procedures deemed necessary and appropriate to carry out its functions, including a written statement of the responsibilities of and expectations for the Chair of the Committee Commission and standards of conduct for members and employees of the Commission in order to maintain and promote public confidence in the integrity of the Commission. The standard of conduct policies shall prohibit members and employees from receiving or soliciting any gift, including meals, alcoholic beverages, travel fare, room and board, or any other thing of value, tangible or intangible, from any vendor or potential vendor of investment services, management services, brokerage services, and other services to the Commission.

~~(e) The Attorney General shall serve as legal advisor to the Committee Contracts.~~

~~(f) Contracts approved by the Committee Commission and related documents may be executed by the Chair, or, in the Chair's absence, the Vice Chair.~~

(f) Asset and liability study. Beginning on July 1, 2022, and every three years thereafter, based on the most recent actuarial valuations of each Plan, the Commission shall study the assets and liabilities of each Plan over a 20-year period. The study shall:

(1) project the expected path of the key indicators of each Plan's financial health based on all current actuarial and investment assumptions; current contribution and benefit policies, including the Plans' mark-to-market funded ratio; actuarially required contributions by source; payout ratio; and related liquidity obligations; and

(2) project the effect on each Plan's financial health resulting from:

(A) possible material deviations from Plan assumptions in investment assumptions, including returns versus those expected and embedded in the actuary's estimate of actuarially required contributions and any material changes in capital markets volatility; and

(B) possible material deviations from key plan actuarial assumptions, including retiree longevity, potential benefit increases, and inflation.

~~(g) Changes to actuarial rate of return. Notwithstanding any other provision of law to the contrary, Any changes to the actuarial rate of return shall be made at a joint meeting of by the Committee Commission and the appropriate Retirement Board. The Board and Committee shall review the recommendations of the actuary and the investment consultant. A change to an actuarial rate of return shall be by joint resolution of the Board and~~

~~Committee. Each body shall vote according to its own procedures. In the event that the Board and Committee are unable to agree on an actuarial rate of return, the existing assumed rate of return shall remain in effect.~~

(h) Annual reports.

(1) Beginning on January 15, 2022, and every year thereafter, the Commission shall submit to the House and Senate Committees on Government Operations:

(A) a report on the performance of each Plan versus its demographic investment and other actuarial assumptions over a three-, five-, seven-, and 10-year period, and the funding ratio of each Plan to each Plan beneficiary at the end of each fiscal year; and

(B) a report on the status of the funding and investment performance of each Plan and any relevant information from the asset liability and scenario testing completed during the prior fiscal year.

(2) The Commission shall send to each participant or beneficiary of each Plan a written or electronic copy of the report described in subdivision (1) of this subsection, in the format authorized by the participant or beneficiary. The report shall be consolidated with any other reports required to be sent by the Commission to the participants or beneficiaries of each Plan.

Second: In Sec. 2, Vermont Pension Investment Commission; transition of member terms, by striking out subdivision (1) and inserting in lieu thereof the following:

(1) Beginning on July 1, 2021, members shall be appointed to fill the new member seats established in 3 V.S.A. § 522(a)(7) and (8) in Sec. 1 of this act. The member appointed pursuant to 3 V.S.A. § 522(a)(7) in Sec. 1 of this act shall serve an initial term of one year, and the member appointed pursuant to 3 V.S.A. § 522(a)(8) in Sec. 1 of this act shall serve an initial term of two years.

Third: In Sec. 3, Vermont Pension Investment Commission; fiscal year 2022 reports, in subsection (b), in the first sentence, by striking out “stand-alone entity” and inserting in lieu thereof an independent entity

Fourth: By striking out Secs. 10–12 in their entirety and inserting in lieu thereof the following:

Sec. 10. PENSION BENEFITS, DESIGN, AND FUNDING TASK FORCE;
STATE EMPLOYEES’ RETIREMENT SYSTEM; STATE
TEACHERS’ RETIREMENT SYSTEM; REPORT

(a) Creation. There is created the Pension Benefits, Design, and Funding Task Force to review and report on the benefits, design, and funding of retirement and retiree health benefit plans for the Vermont State Employees’

Retirement System and the Vermont State Teachers' Retirement System.

(b) Membership.

(1) The Task Force shall be composed of the following members:

(A) two current members of the House of Representatives, not from the same political party, who shall be appointed by the Speaker of the House;

(B) two current members of the Senate, not from the same political party, who shall be appointed by the Committee on Committees;

(C) the Secretary of Administration or designee;

(D) the State Treasurer or designee;

(E) three members, who shall be appointed by the President of the Vermont-NEA;

(F) two members, who shall be appointed by the President of the Vermont State Employees' Association; and

(G) one member of the Vermont Troopers' Association, who shall be appointed by the President of the Vermont Troopers' Association.

(2)(A) The members appointed pursuant to subdivisions (1)(A) and (B) of this subsection (b) shall not be direct or indirect beneficiaries of the Vermont State Employees' Retirement System or the Vermont State Teachers' Retirement System.

(B) The members appointed pursuant to subdivisions (1)(E)–(G) of this subsection (b) shall not be currently serving as a legislator or the spouse or partner of an individual currently serving as a legislator.

(c) Powers and duties.

(1) The Task Force shall make recommendations about benefit provisions and appropriate funding sources along with other recommendations it deems appropriate for consideration, consistent with actuarial and governmental accounting standards, as well as demographic and workforce trends and the long-term sustainability of the benefit programs, including the following:

(A) developing and evaluating a range of strategies to lower the actuarially determined employer contributions and unfunded actuarially accrued liability based on actuarial value of assets in the State Employees' Retirement System and the Teachers' Retirement System by between 25 and 100 percent of the size of the increases from fiscal year 2021 to fiscal year 2022, as reported in the respective Actuarial Valuation and Review for each retirement system, dated June 30, 2020, while maintaining the 2038 amortization date;

(B) a five-year review of benefit expenditure levels as well as employer and employee contribution levels and growth rates and a three-, five-, and 10-year projection of these levels and rates;

(C) identifying potential options for limiting the growth in the actuarially determined employer contributions to not more than inflation;

(D) assessing the impacts associated with any modifications to the current amortization schedule;

(E) based on benefit and funding benchmarks:

(i) proposed benefit structures with the objective of adequate benefits, including an evaluation of a shared-risk model for employer and employee contributions and cost-of-living adjustments, with a focus on reducing any future increases to the unfunded actuarially accrued liability;

(ii) an estimate of the cost of current and any proposed benefit structures on a budgetary and full actuarial accrual basis;

(iii) the State's pension contributions as a percentage of direct general spending and a comparison of other states' pension contributions; and

(iv) how proposed benefit changes for new members may reduce the impact of future actuarial assumption losses;

(F) evaluating any cross-subsidization between all groups within the Vermont State Employees' Retirement System and adjusting contribution amounts to eliminate any cross-subsidization;

(G) examining permanent and temporary revenue streams to fund the Vermont State Employees' Retirement System and the State Teachers' Retirement System;

(H) a plan for prefunding other postemployment benefits, with an evaluation of using federal funds to the extent permissible, including identifying long-term impacts of pay-as-you-go funding;

(I) evaluating the intermediate and long-term impacts to the State and local economies because of any proposed changes to current benefit structures and contribution characteristics and their potential effects on retiree spending power, including retirees who identify as female and retirees who are persons with disabilities; and

(J) an examination of the effects of current benefit structures and contribution characteristics on the recruitment and retention of public school educators and State employees and an evaluation of any proposed changes to current benefit structures and contribution characteristics on the recruitment and retention of public school educators and State employees in the future.

(2) The Task Force shall not make recommendations on adjusting the

assumed rates of return.

(d) Stakeholder input. During the course of its deliberations, and prior to any final recommendations being made, the Task Force shall:

(1) solicit input, including through public hearings, from affected stakeholders, including those impacted by issues of inequities; and

(2) consult with representatives designated by the Supreme Court acting in its constitutional role as the administrator of the Judicial Branch, Group D members of the State Employees' Retirement System, and members of the State Employees' Retirement System who are employees of the Department of Corrections.

(e) Assistance.

(1) The Task Force shall have:

(A) fiscal assistance from the Joint Fiscal Office and Office of the State Treasurer; and

(B) committee support services from the Office of Legislative Operations.

(2) The Office of Legislative Counsel and Joint Fiscal Office are authorized to contract for advisory services for the Task Force from an independent actuary, benefits expert, and legal expert, as necessary.

(f) Leave time. Public employee members of the Task Force shall be granted reasonable leave time by their employers to attend Task Force meetings.

(g) Report. On or before October 15, 2021, the Task Force shall submit an interim written report to the Governor and to the House and Senate Committees on Government Operations with an update on the work of the Task Force. The Task Force shall submit a final report with its findings and any recommendations for legislative action on or before December 2, 2021. The Task Force shall also provide the report to the Board of Trustees of the State Employees' and Teachers' Retirement Systems for their consideration and comment to the General Assembly.

(h) Meetings.

(1) The members appointed pursuant to subdivisions (b)(1)(A) and (B) of this section shall appoint a House and Senate member as co-chairs, who shall call the first meeting of the Task Force to occur on or before June 15, 2021.

(2) A majority of the membership shall constitute a quorum.

(3) The Task Force shall cease to exist on June 30, 2022.

(i) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Task Force serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than 15 meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Task Force who are not State employees shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than 15 meetings. These payments shall be made from monies appropriated to the State Treasurer.

Sec. 11. 2 V.S.A. chapter 31 is added to read:

Chapter 31. JOINT LEGISLATIVE PENSION OVERSIGHT
COMMITTEE

§ 1001. CREATION OF COMMITTEE

(a) Creation. There is created a Joint Legislative Pension Oversight Committee for the purpose of working with and providing assistance to other legislative committees on matters related to State's retirement system other postemployment benefits.

(b) Members. The Committee shall be composed of the following members, who shall be appointed each biennial session of the General Assembly:

(1) three members of the House, who shall not be from the same party, appointed by the Speaker of the House; and

(2) three members of the Senate, who shall not be from the same party, appointed by the Committee on Committees.

(c) Powers and duties. The Committee shall evaluate and make recommendations on the following:

(1) issues of public policy related to the provision of retirement benefits to the State's public sector workforce;

(2) changes to statutory provisions regarding the provision, design, and administration of retirement benefits and the retirement systems;

(3) issues of public policy relating to health benefit design innovations, State regulatory measures, and alternative methods of providing pooled health care benefits to both active and retired school employees to lower health care costs for employees, retirees, school boards, and the State; and

(4) the appropriate annual appropriation to fund the State's retirement

obligations in accordance with actuarial recommendations, statutory amortization schedules, and funding policies.

(d) Policies. The Committee shall elect a chair, vice chair, and clerk from among its members and shall adopt rules of procedures. The Chair shall rotate biennially between the House and Senate members. The Committee shall keep minutes of its meetings.

(e) Meetings.

(1) When the General Assembly is in session, the Committee shall meet at the call of the Chair.

(2) The Committee may meet six times during adjournment and may meet more often subject to approval of the Speaker of the House and the President Pro Tempore of the Senate.

(3) A quorum shall consist of four members.

(f) Assistance. The Committee shall have assistance from the Office of Legislative Counsel, the Office of Legislative Operations, and the Joint Fiscal Office.

(g) Compensation and reimbursement. For attendance at a meeting when the General Assembly is not in session, members of the Committee shall be entitled to compensations for services and reimbursement of expenses as provided under subsection 23(a) of this title.

(h) Reports. Annually, on or before December 1 each year, the Vermont Investment Pension Commission and the Boards of Trustees for the State Employees' Retirement System, Teachers' Retirement System, and Municipal Employees' Retirement, shall report to the Committee.

Sec. 12. CONFORMING REVISIONS

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Counsel shall replace "Vermont Pension Investment Committee" with "Vermont Pension Investment Commission" throughout the statutes as needed for consistency with Secs. 1–9 of this act, provided the revisions have no other effect on the meaning of the affected statutes.

Sec. 13. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 11 shall take effect on July 1, 2022.