

State of Tennessee

PUBLIC CHAPTER NO. 605

SENATE BILL NO. 2251

By Stevens

Substituted for: House Bill No. 2315

By Williams

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 25; Title 8, Chapter 34; Title 8, Chapter 35 and Title 8, Chapter 36, relative to deferred compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-25-103(b), is amended by deleting the third sentence in the subsection and substituting instead:

Such plans include, but are not limited to, plans established pursuant to §§ 401(k), 403(b), 415(m), 457(b), and 457(f) of the Internal Revenue Code (26 U.S.C. §§ 401(k), 403(b), 415(m), 457(b), and 457(f)).

SECTION 2. Tennessee Code Annotated, Section 8-25-103(c), is amended by deleting the subsection.

SECTION 3. Tennessee Code Annotated, Section 8-25-106, is amended by deleting the section and substituting:

A plan established by this part shall exist and serve in addition to other retirement, pension, or benefit systems established by the state of Tennessee, state agencies, counties, municipalities, or other political subdivisions. A deferred compensation plan established by this part shall not supersede, make inoperative, or reduce any benefits provided by the consolidated retirement system or programs established by any counties, municipalities, or other political subdivision thereof, or any other retirement, pension, or benefit program established by law.

SECTION 4. Tennessee Code Annotated, Section 8-25-107, is amended by deleting this section and substituting:

Notwithstanding another law to the contrary, and except as provided in Section 8 of this act, any compensation deferred under this part must be considered part of an employee's compensation for purposes of another employee retirement, pension, or benefit program. A deferral of income under the deferred compensation program shall not effect a reduction of any retirement, pension, or other benefit program provided by law.

SECTION 5. Tennessee Code Annotated, Section 8-25-305, is amended by deleting the section.

SECTION 6. Tennessee Code Annotated, Title 8, Chapter 25, Part 1, is amended by adding the following new section:

(a) The state treasurer, with the approval of the commissioner of finance and administration, may adopt a new feature to one (1) or more of the state's deferred compensation plans, which plans include, but are not limited to, the 401(k), 403(b), and 457(b) plans that would permit state employees, including employees of institutions of higher education, to designate some or all of the employees' contributions as Roth contributions to the plans at the time the contributions are made, in accordance with § 402A of the Internal Revenue Code (26 U.S.C. § 402A).

(b) A political subdivision or instrumentality of the state that makes available to its employees a profit sharing or salary reduction plan, including, but not limited to, those approved by the internal revenue service under §§ 401(k), 403(b), or 457(b) of the Internal Revenue Code (26 U.S.C. § 401(k); 26 U.S.C. § 403(b); and 26 U.S.C. § 457(b)), may, by resolution or ordinance of its governing body, adopt a Roth contribution feature to its plan as described in this section.

(c) Any Roth contribution feature adopted pursuant to this section must conform to all applicable laws, rules, and regulations of the internal revenue service.

SECTION 7. Tennessee Code Annotated, Section 8-25-108, is amended by deleting the section and substituting:

Notwithstanding this part or another law to the contrary, any sum deferred under the deferred compensation program shall not be included for the purposes of computation of any federal income taxes withheld on behalf of any employee, unless the deferred sum is designated by the employee as a Roth contribution pursuant to Section 6 of this act.

SECTION 8. Tennessee Code Annotated, Section 8-34-101(14), is amended by deleting subdivisions (D) and (E) and substituting instead the following, and redesignating the remaining subdivisions accordingly:

(D) Notwithstanding this subdivision (14) or another law to the contrary, "earnable compensation" does not include:

(i) Compensation paid to a teacher employed in a state-supported institution of higher education for performing extra services for the institution that exceeds twenty-five percent (25%) of the teacher's base compensation. For purposes of this subdivision (14), "extra services" means any duties other than summer school or regular duties;

(ii) Compensation that exceeds the maximum dollar limitation imposed by § 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases in accordance with § 401(a)(17)(B) of the Internal Revenue Code (26 U.S.C. § 401(a)(17)(B)). For any person becoming a member of the retirement system before July 1, 1996, the dollar limitation under § 401(a)(17) of the Internal Revenue Code (26 U.S.C. § 401(a)(17)), shall not apply to the extent the amount of compensation which is allowed to be taken into account under the system would be reduced below the amount which was allowed to be taken into account under the system as in effect on July 1, 1993; and

(iii) Compensation paid to a member from a plan for the deferral of compensation under § 457(f) of the Internal Revenue Code (26 U.S.C. § 457(f)).

SECTION 9. Tennessee Code Annotated, Section 8-35-111(b), is amended by adding the following new subdivision:

(5) A tax deferred retirement plan under § 457(f) of the Internal Revenue Code (26 U.S.C. § 457(f)).

SECTION 10. Tennessee Code Annotated, Section 8-35-256(a)(2), is amended by deleting the subdivision and substituting instead:

(a)(2) Notwithstanding § 8-35-111 or another law to the contrary, a political subdivision that adopts the hybrid plan authorized in this section may make employer contributions to the defined contribution plan component of the hybrid plan and to any one (1) or more additional tax deferred compensation or retirement plans; provided, that the total combined employer contributions to such defined contribution plans on behalf of an employee, with the exception of contributions made to a tax deferred retirement plan under § 457(f) of the Internal Revenue Code (26 U.S.C. § 457(f)), shall not exceed seven percent (7%) of the employee's salary.

SECTION 11. Tennessee Code Annotated, Section 8-36-916(c)(1), is amended by deleting the fourth sentence in the subdivision and substituting instead:

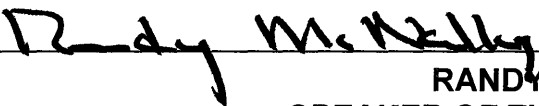
The mandatory contributions required in this subdivision (c)(1) are in addition to any match provided for in § 8-25-303 to participants who otherwise participate in a profit sharing or salary reduction plan under chapter 25, part 3 of this title; provided, that the total combined employer contributions to all defined contribution plans, with the exception of contributions made to a tax deferred retirement plan under § 457(f) of the Internal Revenue Code (26

U.S.C. § 457(f)), on behalf of a single employee shall not exceed seven percent (7%) of the employee's salary and must conform to all applicable laws, rules, and regulations of the internal revenue service governing profit sharing and salary reduction plans for governmental employees.

SECTION 12. This act takes effect upon becoming a law, the public welfare requiring it.

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PASSED: March 11, 2024



RANDY McNALLY
SPEAKER OF THE SENATE



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 27th day of March 2024



BILL LEE, GOVERNOR