

SENATE BILL 1008

By McNally

AN ACT to amend Tennessee Code Annotated, Section 8-24-104(c); Title 8, Chapter 25, Part 1; Section 8-25-111; Title 8, Chapter 25, Part 3; Title 8, Chapter 34, Part 2; Section 8-34-203; Section 8-34-302(a)(6); Section 8-34-319; Section 8-34-321; Title 8, Chapter 35, Part 2; Section 8-35-201(d); Section 8-35-218(a); Section 8-36-208(b) and Section 8-36-212, relative to pensions and compensation programs for public officers and employees.

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

SECTION 1. Tennessee Code Annotated, Section 8-25-104(c), is amended by deleting the same in its entirety and by substituting instead the following:

(c) The chair of the consolidated retirement board or appropriately designated local officer, board or committee of such deferred compensation program may contract with a private corporation, institution, and/or custodial bank to provide consolidated billing and all or any other administrative services deemed necessary or appropriate for the administration and operation of the program. The chair of the consolidated retirement board or appropriately designated local officer, board or committee of such deferred compensation program may assess the costs associated with administering the program to the respective participating employees in order that any such plans adopted shall operate without cost to or contribution from the state of Tennessee.

SECTION 2. Tennessee Code Annotated, Section 8-25-111(a), is amended by deleting the same in its entirety and by substituting instead the following:

(a) Notwithstanding any provision of the law to the contrary, any governmental entity as defined in subsection (b) below may elect to become a participating employer in any deferred compensation program established on behalf of state employees under the

provisions of this part or under the provisions of Part 3 of this chapter; provided that such participation shall be subject to the approval of the chair of the Tennessee consolidated retirement system and in conformity with such terms and conditions as may be prescribed by said chair. If such approval is given, then all employees of the respective entity shall be eligible to participate in any such deferred compensation program, except for the employer matching as provided for in § 8-25-303.

SECTION 3. Tennessee Code Annotated, Section 8-25-111, is amended by adding the following as a new subsection (b) thereof and by redesignating the existing subsections accordingly:

(b) For purposes of this section, “governmental entity” means any Tennessee local governmental entity, including, but not limited to, any municipality, metropolitan government, county, utility district, school district, public building authority, and development district created and existing pursuant to the laws of Tennessee, or any instrumentality of government created by any one (1) or more of the named local governmental entities or by an act of the general assembly. Notwithstanding any provision of this section to the contrary, no entity shall be eligible to participate in any such deferred compensation program if the chair of the Tennessee consolidated retirement system determines, in the chair’s sole discretion, that the entity’s participation could have a potential adverse effect on the program’s status as a qualified plan under the internal revenue code and regulations. In making such determination, the chair may rely on the advice of a nationally recognized counsel in the area of governmental employee benefit plans.

SECTION 4. Tennessee Code Annotated, Section 8-34-203, is amended by deleting the same in its entirety and by substituting instead the following:

No other provision of law in any other statute which provides wholly or partly at the expense of the state of Tennessee or any political subdivision thereof pensions or retirement benefits for members or beneficiaries of the retirement system shall apply to such members or beneficiaries of the retirement system except the provisions of Title II of the Social Security Act (42 U.S.C. §§ 401-425) and the provisions of chapter 25, part 3 of this title. Further, no other provision of law in any other statute which bestows membership in the Tennessee consolidated retirement system from or after the effective date of this Act shall apply unless such membership provision is codified in chapter 35 of this title.

SECTION 5. Tennessee Code Annotated, Section 8-34-302(a)(6), is amended by deleting the word “personnel”, and by substituting instead the words “human resources”.

SECTION 6. Tennessee Code Annotated, Section 8-34-319, is amended by deleting the same in its entirety and by substituting instead the following:

The board of trustees, with the approval of the commissioner of finance and administration, may, at its discretion, direct that the cost of administering the retirement system and the optional retirement program established pursuant to chapter 35, part 4 of this title be prorated among all employers and deducted from each employer's account in the state accumulation fund.

SECTION 7. Tennessee Code Annotated, Section 8-34-321, is amended by deleting from the last sentence thereof the words and figures “June 30, 2014” and by substituting instead the words and figures “June 30, 2016”.

SECTION 8. Tennessee Code Annotated, Section 8-35-201(d), is amended by deleting the same in its entirety and by substituting instead the following:

(d) Notwithstanding anything to the contrary in this part, any governing body of any joint venture between one (1) or more political subdivisions of the state may by resolution authorize the employees of such joint venture to become members of the

Tennessee consolidated retirement system under all the applicable provisions of this part; provided, that each political subdivision of the state which is represented in the joint venture shall by resolution prescribed by the board of trustees guarantee the payment of its prorated share of any outstanding liability so incurred by this action.

SECTION 9. Tennessee Code Annotated, Section 8-35-218(a)(11), is amended by deleting the same in its entirety and by substituting instead the following:

(11) An actuarial valuation shall be completed by the system's actuary when an employer voluntarily withdraws from the retirement system pursuant to this section. The actuarial valuation shall determine the appropriate employer contributions to be made to the plan based on a level dollar contribution so as to amortize the unfunded accrued liability over a period of time established by the board of trustees, such period not to exceed a thirty (30) year period. The board of trustees may, at its discretion, reestablish the amortization period at any time provided such reestablished period does not exceed thirty (30) years. The level dollar contribution amount shall be remitted monthly to the retirement system. Pursuant to § 8-34-506, the biennial valuation shall continue to be performed;

SECTION 10. Tennessee Code Annotated, Section 8-36-208(b), is amended by adding the following new subdivision at the end thereof:

(6) The provisions of this subsection (b) shall not apply to any person who becomes a member of the retirement system on or after July 1, 2011.

SECTION 11. Tennessee Code Annotated, Section 8-36-212, is amended by deleting the same in its entirety.

SECTION 12. Tennessee Code Annotated, Title 8, Chapter 25, Part 1, is amended by adding the following as a new appropriately designated section:

8-25-1__.

(a) Counsel for the treasury department shall serve as the attorney for the chair of the Tennessee consolidated retirement system with respect to any deferred or tax-sheltered compensation plans established pursuant to this chapter on behalf of state employees, including employees of institutions of higher education.

(b) Notwithstanding any provision of law to the contrary, in cases where the interest of any deferred or tax-sheltered compensation plans referred to in subsection (a) above require additional counsel, the chair of the Tennessee consolidated retirement system, with the approval of the attorney general and reporter, is authorized to contract with such additional counsel, who shall be paid such compensation for services as the chair may deem just.

SECTION 13. Tennessee Code Annotated, Title 8, Chapter 25, Part 3, is amended by adding the following as a new appropriately designated section:

8-25-3__.

(a) Counsel for the treasury department shall serve as the attorney for the treasurer with respect to the plan.

(b) Notwithstanding any provision of law to the contrary, in cases where the interests of the plan requires additional counsel, the treasurer, with the approval of the attorney general and reporter, is authorized to contract with such additional counsel, who shall be paid such compensation for services as the treasurer may deem just.

SECTION 14. Tennessee Code Annotated, Title 8, Chapter 34, Part 2, is amended by adding the following as a new appropriately designated section:

8-34-2__.

(a) Notwithstanding § 8-36-121 or any other provision of law to the contrary, the board of trustees may implement procedures for the filing of membership forms, beneficiary designations, retirement applications and any other retirement system forms

and documents by electronic means and to authorize electronic signatures in the signing of such forms and documents.

(b) If a form or document is filed by electronic means pursuant to this section, the form or document and the electronic signature of the person who executes the same shall be binding on all persons and shall have the same force and effect as if the signature had been handwritten in ink on a printed form.

(c) For purposes of this section, the following definitions shall apply:

(1) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

SECTION 15. Tennessee Code Annotated, Title 8, Chapter 35, Part 2, is amended by adding the following as a new appropriately designated section:

8-35-2__.

(a) The chief governing body of any political subdivision participating in the retirement system may by resolution, legally adopted and approved by a two-thirds (2/3) majority of that body, elect to discontinue the mandatory retirement provisions of § 8-36-205 for all its firefighters and police officers, and for anyone who has been transferred from such a position to a supervisory or administrative position within the police or fire department of the political subdivision. All such employees who were employed prior to the effective date of the resolution will continue to be subject to the mandatory retirement provisions of § 8-36-205 and will continue to be eligible for the supplemental bridge benefit established pursuant to § 8-36-211. Such resolution shall set forth the effective

date of the discontinuance; provided, that the date shall be on the first day of any quarter following a minimum of three (3) months' notice to the retirement system.

(b) Any resolution to discontinue the mandatory retirement provisions of § 8-36-205 that is adopted pursuant to this section shall be irrevocable and the political subdivision shall not be permitted to elect at a later date to provide the mandatory retirement provisions of § 8-36-205.

SECTION 16. Tennessee Code Annotated, Title 8, Chapter 35, Part 2, is amended by adding the following as a new appropriately designated section:

8-35-2__.

(a) The chief governing body of any employer participating in the retirement system pursuant to this part may by resolution, legally adopted and approved by a two-thirds (2/3) majority of that body, elect to discontinue the base benefit improvement provisions of § 8-36-124 for all employees employed with such employer after the effective date of the resolution. Employees who were employed prior to the effective date of the resolution will continue to be eligible for the base benefit improvement described in § 8-36-124. Such resolution shall set forth the effective date of the discontinuance; provided, that the date shall be on the first day of any quarter following a minimum of three (3) months' notice to the retirement system.

(b) Any resolution to discontinue the base benefit improvement provisions of § 8-36-124 that is adopted pursuant to this section shall be irrevocable and the employer shall not be permitted to elect at a later date to provide the base benefit improvement provisions of § 8-36-124.

SECTION 17. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the

act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 18. This act shall take effect upon becoming a law, the public welfare requiring it.