

CHAPTER 40
HB 356 - FINAL VERSION

9Apr2021... 1140EBA

2021 SESSION

21-0384
10/08

HOUSE BILL **356**

AN ACT relative to the city of Manchester employees' contributory retirement system.

SPONSORS: Rep. Long, Hills. 10

COMMITTEE: Executive Departments and Administration

ANALYSIS

The bill makes administrative changes and clarifications to the employees' contributory retirement system of the city of Manchester, including compliance with the applicable provisions of the Internal Revenue Code and related Treasury regulations, expanding the options available to the system's board whenever an elected trustee become unwilling or incapable of completing their term of election, and other technical changes.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struckthrough.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 40
HB 356 - FINAL VERSION

9Apr2021... 1140EBA

21-0384
10/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the city of Manchester employees' contributory retirement system.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 40:1 Manchester Employees' Contributory Retirement System; Internal Revenue Code
2 Qualification. Amend 1973, 218:3 as amended by 2002, 194:1 to read as follows:

3 218:3 Internal Revenue Code Qualification. The retirement system established in this act is
4 intended to create a tax-qualified governmental retirement plan under sections 401(a) and 414(d) of
5 the Code as amended. ***The applicable provisions of the retirement system necessary to***
6 ***comply with all qualification requirements of the Code, the applicable Treasury***
7 ***Regulations, and other Internal Revenue Service guidance and pronouncements shall be***
8 ***set forth in this statute and the retirement system administrative rules.***

9 40:2 Definition; Earnings. Amend 1973, 218:4, VIII as amended by 2002, 194:1 to read as
10 follows:

11 VIII. "Earnings" means the total salary or wages of a member for the member's employment
12 with the city, including all grants and allowances for maintenance at such figures as may be
13 determined by the retirement board. For members whose retirement date is after July 1, 1996, and
14 members who on July 1, 1996 and thereafter terminated city employment and elected to defer their
15 benefits until their normal retirement date but had not yet reached their normal retirement date,
16 earnings shall include unused sick time included in the member's salary or wages at the member's
17 date of termination of city employment. For members whose retirement date is after December 1,
18 1997, and members who on December 1, 1997 and thereafter terminated city employment and
19 elected to defer their benefits until their normal retirement date but had not yet reached their
20 normal retirement date, earnings shall include unused vacation time included in the member's
21 salary or wages at their date of termination of city employment. ***The determination of earnings***
22 ***and final average earnings shall at all times be made in accordance with section 415 of the***
23 ***Code, and the related Treasury Regulations, the applicable provisions of which shall be set***
24 ***forth in the administrative rules. Beginning January 1, 2009, to the extent required by***
25 ***sections 401(h) and 414(u)(12) of the Code, any differential wage payments to a member***
26 ***from an employer (while the individual is performing qualified military service as defined***
27 ***in Chapter 43 of Title 38, United States Code) shall be treated as compensation for***
28 ***purposes of applying the limits on annual additions under Code section and for purposes***
29 ***of determining earnings and final average earnings.***

CHAPTER 40
HB 356 - FINAL VERSION
- Page 2 -

1 40:3 Board Vacancy. Amend 1973, 218:5, IV as amended by 2002, 194:1 and 2003, 102:2 to read
2 as follows:

3 IV. In the event of a vacancy on the retirement board, such vacancy shall be filled in the
4 same manner as the member to be succeeded was appointed or elected and for the remainder of the
5 unexpired term. Any person who is vacating a trustee position on the board may, if the trustee's
6 circumstances permit, continue to represent the membership as a trustee [~~for a period not to exceed~~
7 ~~6 months~~] ***until the next regularly scheduled trustee election***, or, until a successor is appointed
8 or elected, whichever period is shortest. ***In the event that an elected trustee is unwilling or***
9 ***incapable of completing the year in which they cease to be a member, the retirement board***
10 ***may appoint an individual, as defined in section 5, paragraph I, to complete the calendar***
11 ***year.***

12 40:4 Contributions by the City; Actuarial Assumptions. Amend 1973, 218:8 as amended by
13 2002, 194:1 to read as follows:

14 218:8 Contributions by the City. The city shall appropriate annually to the retirement board the
15 amounts required to fund the benefits set forth in the act as determined by the retirement board on
16 the basis of an actuary's valuation, which shall be based on sound actuarial funding methods,
17 assumptions, and principles. ***The actuarial assumptions used by the actuary shall be in***
18 ***conformity with the requirements of the Code and the related Treasury Regulations and***
19 ***shall be set forth in the administrative rules.***

20 40:5 Retirement Benefits; Payments. Amend 1973, 218:12, IV as amended by 2002, 194:1 and
21 2006, 115:1 to read as follows:

22 IV. Notwithstanding any provision of this act, the maximum pension payment payable to
23 any member or beneficiary shall be limited to such extent as may be necessary to comply with the
24 requirements of sections 401(a)(16), 401(a)(17) and 415 of the Code. The retirement benefits payable
25 hereunder shall be made in the form, at such time and otherwise in compliance with the distribution
26 and rollover requirements of sections 402(c), 401(a)(9), and 401(a)(31) of the Code ***and the related***
27 ***Treasury Regulations the applicable provisions of which shall be set forth in the***
28 ***administrative rules.*** Member contributions and benefit upgrade purchases shall be made in
29 conformity with section 415 of the Code ***and the related Treasury Regulations the applicable***
30 ***provisions of which shall be set forth in the administrative rules.***

31 40:6 New Paragraph; Benefits Upon Death of a Member. Amend 1973, 218:16 as amended by
32 2002, 194:1 by inserting after paragraph III the following new paragraph:

33 IV. Death During Military Service. Effective with respect to deaths occurring on or after
34 January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43
35 of Title 38, United States Code), death benefits shall be provided to the survivors of a member to the
36 extent required by section 401(a)(37) of the Code.

CHAPTER 40
HB 356 - FINAL VERSION
- Page 3 -

1 40:7 Review of Retirement Board Orders; Time. Amend 1973, 218:26, I as amended by 2002,
2 194:1 to read as follows:

3 I. Any member aggrieved by a decision of the retirement board denying the benefits
4 provided by this act may request a hearing by filing a written petition no later than 45 days after the
5 date of the decision. The petition shall include the name and address of the member, the denial of
6 benefits being contested, legal basis on which the denial is being contested, and any documentation
7 or exhibits which support the member's position. The retirement board shall grant or deny the
8 hearing request [~~within 14 days of the member's request~~] **at its next scheduled meeting**. The
9 rules and procedures for all hearings shall be set forth in the administrative rules.

10 40:8 Medical Insurance Coverage. Amend 1973, 218:28, II, as amended by 2005, 41:1, to read as
11 follows:

12 II. Member contributions toward this subsidy shall be funded by an increase in the member
13 contribution rate established pursuant to section 218:9, I by 1.25 percent. [~~Under no circumstances~~
14 ~~shall a member be entitled to a refund of contributions made to the Section 401(h) subtrust.~~]
15 Notwithstanding any other provisions of chapter 218 to the contrary, members shall not be entitled
16 to a refund of contributions made to the Section 401(h) subtrust. The city shall fund the remaining
17 cost of funding the 401(h) subtrust based on methods and assumptions determined by the board.
18 Any contribution made by the city intended to fund the 401(h) subtrust shall be so designated. Any
19 transfers of retirement system assets to the 401(h) subtrust shall be limited to excess assets as
20 defined in Internal Revenue Code Section 420(e)(2). All such transfers must be made in accordance
21 with Internal Revenue Code Section 420 and all applicable Treasury regulations.

 40:9 Effective Date. This act shall take effect upon its passage.

Approved: May 17, 2021
Effective Date: May 17, 2021