

CHAPTER 183
HB 1494-FN – FINAL VERSION

12Feb2014... 0422h
04/24/14 1426s
4Jun2014... 1956CofC

2014 SESSION

14-2413
10/04

HOUSE BILL ***1494-FN***

AN ACT relative to administration of the New Hampshire retirement system and authority
of the board of trustees.

SPONSORS: Rep. Gagnon, Sull 5

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill:

- I. Clarifies definitions of terms used in RSA 100-A.
- II. Establishes a procedure for the determination of the costs of purchase of service credits.
- III. Clarifies the ability to earn service credit while on a salary continuance plan.
- IV. Changes the date for the approval of the comprehensive annual financial report (CAFR).
- V. Adds a penalty for employers who fail to timely remit data on compensation paid to retired members.
- VI. Repeals obsolete provisions.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to administration of the New Hampshire retirement system and authority
of the board of trustees.

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

1 183:1 Definitions; Employer; Employee. Amend RSA 100-A:1, IV and V to read as follows:

2 IV. “Employer” shall mean (a) the state or any department, commission, institution, or
3 agency of the state government by which an employee is paid through the office of the state treasurer
4 with respect to their employees, (b) the state, the local school district, or other employers of teachers
5 eligible for membership in the system with respect to the teachers in their employ, (c) any police
6 department or police force of the state, or of any county, city, town, village, or precinct in the state
7 with respect to the permanent policemen in their employ, (d) any fire department of the state, or of
8 any county, city, town, village, or precinct in the state with respect to the permanent firemen in their
9 employ, (e) any political subdivision that has elected to participate under RSA 100-A:20, and (f) the
10 community college system of New Hampshire; provided, however, that in no instance shall any
11 employer contribute or participate in the retirement system unless by a reasonable determination of
12 the board of trustees such employer qualifies as a governmental entity, political subdivision, agency,
13 or instrumentality eligible to participate in the retirement system as a governmental plan within the
14 meaning of section 414(d) of the United States Internal Revenue Code of 1986, as amended. **When 2**
15 **or more employers share or merge payroll functions, each employer shall continue to be**
16 **considered a separate employer for the purposes of RSA 100-A.**

17 V. “Employee” shall mean any regular classified, **nonclassified**, or unclassified officer or
18 employee of the state or any department, commission, institution or agency of the state government
19 by which an employee is paid through the office of the state treasurer, or employees of the general
20 court who work on a full-time basis and are eligible for other state benefits, but whose salary is
21 calculated on a per diem basis, or any employee of the retirement system, or any full-time employee
22 of the community college system of New Hampshire, or of any of the groups authorized to participate
23 under this chapter but excluding any person who is a teacher, permanent policeman, or permanent
24 fireman as defined in this section, or who is a member or attache of the general court or member of
25 the executive council.

26 183:2 Definition; Earnable Compensation. Amend RSA 100-A:1, XVII to read as follows:

27 XVII. “Earnable compensation” shall mean:

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1 (a) For members who have attained vested status prior to January 1, 2012 the full base
2 rate of compensation paid, as determined by the employer, plus any overtime pay, holiday and
3 vacation pay, sick pay, longevity or severance pay, cost of living bonus, additional pay for
4 extracurricular and instructional activities *for full-time teachers and full-time employees who*
5 *are employed in paraprofessional or support position*, and any military differential pay, plus
6 the fair market value of non-cash compensation paid to, or on behalf of, the member for meals or
7 living quarters if subject to federal income tax, but excluding other compensation except cash
8 incentives paid by an employer to encourage members to retire, supplemental pay paid by the
9 employer while the member is receiving workers' compensation, and teacher development pay that is
10 not part of the contracted annual salary. Compensation for extra and special duty, as reported by
11 the employer, shall be included but limited during the highest 3 years of creditable service as
12 provided in paragraph XVIII. However, earnable compensation in the final 12 months of creditable
13 service prior to termination of employment shall be limited to 1-1/2 times the higher of the earnable
14 compensation in the 12-month period preceding the final 12 months or the highest compensation
15 year as determined for the purpose of calculating average final compensation, but excluding the final
16 12 months. Any compensation received in the final 12 months of employment in excess of such limit
17 shall not be subject to member or employer contributions to the retirement system and shall not be
18 considered in the computation of average final compensation. Provided that, the annual
19 compensation limit for members of governmental defined benefit pension plans under section
20 401(a)(17) of the United States Internal Revenue Code of 1986, as amended, shall apply to earnable
21 compensation for all employees, teachers, permanent firemen, and permanent policemen who first
22 become eligible for membership in the system on or after July 1, 1996. Earnable compensation shall
23 not include compensation in any form paid later than 120 days after the member's termination of
24 employment from a retirement eligible position, with the limited exceptions of disability related
25 severance pay paid to a member or retiree no later than 120 days after a decision by the board of
26 trustees granting the member or retiree disability retirement benefits pursuant to RSA 100-A:6 and
27 of severance pay which a member was entitled to be paid within 120 days after termination but
28 which, without the consent of the member and not through any fault of the member, was paid more
29 than 120 days after the member's termination. The member shall have the burden of proving to the
30 board of trustees that any severance payment paid later than 120 days after the member's
31 termination of employment is earnable compensation and meets the requirements of an asserted
32 exception to the 120-day post-termination payment requirement.

33 (b)(1) For members who have not attained vested status prior to January 1, 2012, the
34 full base rate of compensation paid, as determined by the employer, plus compensation over base
35 pay. Compensation over base pay shall include as applicable, subject to subparagraphs (2), (3), and
36 (4), any overtime pay, cost of living bonus, annual longevity pay, additional pay for extracurricular

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1 and instructional activities *for full-time teachers and full-time employees who are employed*
2 *in paraprofessional or support position*, compensation for extra and special duty, and any
3 military differential pay, plus the fair market value of non-cash compensation paid to, or on behalf
4 of, the member for meals or living quarters if subject to federal income tax, but excluding other
5 compensation except supplemental pay paid by the employer while the member is receiving workers'
6 compensation and teacher development pay that is not part of the contracted annual salary.

7 (2) Compensation over base pay shall be limited during the highest 5 years of
8 creditable service as provided in paragraph XVIII.

9 (3) Earnable compensation shall not include compensation for extra and special duty
10 for members who commence service on and after July 1, 2011.

11 (4) Earnable compensation shall not include incentives to encourage members to
12 retire, severance pay or end-of-career additional longevity payments, and pay for unused sick or
13 vacation time. Earnable compensation in the final 12 months of creditable service prior to
14 termination of employment shall be limited to 1-1/2 times the higher of the earnable compensation in
15 the 12-month period preceding the final 12 months or the highest compensation year as determined
16 for the purpose of calculating average final compensation, but excluding the final 12 months. Any
17 compensation received in the final 12 months of employment in excess of such limit shall not be
18 subject to member or employer contributions to the retirement system and shall not be considered in
19 the computation of average final compensation. Provided that, the annual compensation limit for
20 members of governmental defined benefit pension plans under section 401(a)(17) of the
21 United States Internal Revenue Code of 1986, as amended, shall apply to earnable compensation for
22 all employees, teachers, permanent firemen, and permanent policemen who first become eligible for
23 membership in the system on or after July 1, 1996. Earnable compensation shall not include
24 compensation in any form paid later than 120 days after the member's termination of employment
25 from a retirement eligible position.

26 183:3 New Paragraphs; Definitions; Active Member; Inactive Member; Normal Retirement Age.
27 Amend RSA 100-A:1 by inserting after paragraph XXXIV the following new paragraphs:

28 XXXV. "Active member" means a member who is employed by a retirement system
29 participating employer and who is both receiving earnable compensation and earning service credit
30 for which the retirement system receives payment of full employer and member contributions under
31 RSA 100-A:16.

32 XXXVI. "Inactive member" means a member who has been absent from service for reasons
33 other than retirement or death for more than 180 days without requesting a return of his or her
34 accumulated contributions.

35 XXXVII. "Normal retirement age" means:

36 (a) For a group I member, age 60 if the member commenced service before July 1, 2011;

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1 otherwise, age 65.

2 (b)(1) For a group II member who is in vested status before January 1, 2012, the later of
3 the date that the member has both attained age 45 and completed 20 years of creditable service;

4 (2) For a group II member who commenced service on or after July 1, 2011, the later
5 of the date that the member has both attained age 52.5 and completed 25 years of creditable service;

6 (3) For a group II member who commenced service prior to July 1, 2011, and who has
7 not attained vested status prior to January 1, 2012, as provided in the transition provisions in
8 RSA 100-A:5, II(d); or

9 (4) For any group II member in service, age 60 regardless of the number of years of
10 creditable service.

11 183:4 Prior Service Credit; Determination of Cost. Amend RSA 100-A:3, VI(b) to read as follows:

12 (b) In the case of prior service credit for time served as a member for which the member's
13 accumulated contributions have been withdrawn, the amount of creditable service purchased may be
14 the full length of service relating to the withdrawn contributions or a partial share of such service.
15 The amount determined by the actuary to reinstate full or partial service credit shall be the amount
16 of withdrawn contributions, but not less than one month's contributions multiplied by the ratio of the
17 service credit to be purchased to the full length of service relating to the withdrawn contributions,
18 with this amount adjusted for interest from the date of withdrawal to the date of payment based on
19 the interest rates in effect for each fiscal year. The amount determined by the actuary to purchase
20 prior service credit related to Peace Corps and AmeriCorps service shall be computed under
21 RSA 100-A:4, VIII. For all other prior service credit the amount determined by the actuary shall be
22 the ~~[product of the member's annual rate of compensation at the time of buy-in, multiplied by the~~
23 ~~sum of the member and employer contribution rates in effect with respect to the member at the time~~
24 ~~of buy-in, multiplied by the number of years of prior service credit bought]~~ **full actuarial cost of**
25 **service credit determined by the actuary based on methods and assumptions recommended**
26 **by the actuary and approved by the board of trustees. The member may be required to**
27 **prepay all or part of the actuarial calculation fee, as determined by the board. Credit**
28 **shall not be granted until the active member has fully paid for such service credit in a**
29 **lump sum or by installment payments as permitted by the board. The member's payment**
30 **shall be credited to the member annuity savings fund.**

31 183:5 Salary Continuance Plan. Amend RSA 100-A:4, III-a to read as follows:

32 III-a. Notwithstanding the provisions of paragraph III of this section, any group I or group II
33 member who is absent without salary due to a disability for which the member is compensated by a
34 salary continuance plan which is funded wholly or partially by the member's employer shall continue
35 to accrue creditable service until **the earlier of** such time as the member returns to work, dies,
36 retires ~~[or]~~, is no longer compensated by such salary continuance plan, **or is no longer employed**

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1 *by the employer.* Amounts received under such salary continuance plan are earnable compensation
2 to the extent attributable to employer funding and shall be subject to the regular member
3 contributions required under RSA 100-A:16 and the required employer and state contributions, if
4 applicable, as are in effect from time to time. All such contributions shall be remitted to the
5 retirement system in accordance with remittance procedures of the board of trustees. Any group I or
6 group II member who is absent without salary due to a disability for which the member is
7 compensated by a salary continuance plan which has not been funded in whole or in part by the
8 member's employer shall not accrue any creditable service for the period of such absence. Further,
9 amounts received from such salary continuance plan shall not be included as earnable compensation
10 for purposes of the retirement system.

11 183:6 Approval of CAFR; Date Changed. Amend RSA 100-A:16, II(g) to read as follows:

12 (g) All interest and dividends earned on the funds of the retirement system shall be
13 credited to the state annuity accumulation fund. The board of trustees shall allow interest on the
14 individual accounts of members in the member annuity savings fund and shall annually transfer
15 such interest amount from the state annuity accumulation fund. The rate of interest for the calendar
16 year beginning January 1 shall be 2 percentage points less than either the most recent board of
17 trustees approved assumed rate of return or the actual rate of return, whichever is lower, for the
18 immediately preceding fiscal year as reported in the comprehensive annual financial report (CAFR)
19 as approved and accepted by the board of trustees by December [±] **31** of each year, provided the rate
20 shall not be less than zero. Such interest shall be compounded at an annual rate and shall be
21 prorated and credited to the member annuity savings fund to the date of processing upon
22 termination of active service for any reason including withdrawal, retirement, or death.

23 183:7 Remitting Contributions; Interest. Amend RSA 100-A:16, V to read as follows:

24 V. Notwithstanding any other provision of law any member contributions deducted by an
25 employer, or any employer assessments or contributions not remitted *or that cannot be processed*
26 at the times designated by the board of trustees *due to data reporting errors*, shall be subject to
27 interest on the amount due at the rate of one percent for each month or fraction thereof that they
28 remain unpaid. For reasonable cause, the board may abate all or any part of the interest.

29 183:8 Retired Member Compensation Reporting; Penalty. Amend RSA 100-A:16, VII to read as
30 follows:

31 VII.(a) Every employer shall report to the retirement system monthly, in a format provided
32 by the retirement system, all compensation paid by the employer to retired members of the
33 retirement system, including the name of, and the total hours worked, for each retired member of the
34 retirement system, *except that an employer shall not include in the report the compensation*
35 *and hours worked by a retiree for serving as an elected state official or as an elected*
36 *official of a political subdivision.*

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1 ***(b) Notwithstanding any other provision of law, employers shall be subject to a***
2 ***penalty of \$25 per day for non-compliance with the data reporting requirements of***
3 ***subparagraph (a), including data that was not timely remitted or data that cannot be***
4 ***processed at the times designated by the board of trustees due to data reporting errors by***
5 ***the employer. The board may abate all or any part of the penalty upon a showing that the***
6 ***employer did not willfully, intentionally, through gross negligence, or through a pattern of***
7 ***negligence fail to file the data as required.***

8 183:9 Repeals. The following are repealed:

9 I. RSA 100-A:17, relative to transfer of funds from predecessor systems.

10 II. RSA 100-A:41-b, relative to supplemental allowances for certain retired group II
11 members.

12 183:10 Effective Date. This act shall take effect July 1, 2014.

13
14 Approved: July 11, 2014

15 Effective Date: July 1, 2014

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