Rep. T. Lekas, Hills. 38 Rep. D. McGuire, Merr. 14 November 2, 2023 2023-2406h 10/08

Amendment to HB 559-FN

Amend the bill by replacing all after the enacting clause with the following:

 1 Participation by Members; Retirement System; Defined Contribution Plan. Amend the introductory paragraph of RSA 100-A:3, I(a) to read as follows:

- I.(a) Any person who becomes [an] a political subdivision employee, teacher, permanent policeman, or permanent fireman after the date of establishment, or who begins state employee service before July 1, 2024, working in a position for an employer under this chapter as determined by common law standards, shall become a member of the defined benefit retirement system as a condition of employment. In addition, employees appointed to an unclassified position with no fixed term on or after July 1, 2011 and before July 1, 2024 shall become members of the defined benefit retirement system as a condition of employment, if they are receiving benefits from the retirement system. Any retirement benefit collected by such an unclassified employee shall be suspended during the period of employment. Membership in the retirement system shall be optional in the case of elected officials, officials appointed for fixed terms, employees appointed to an unclassified position with no fixed term prior to July 1, 2011, or those employees of the general court who are eligible for membership in the retirement system. [Other] Elected officials and officials appointed for fixed terms shall, however, be eligible for membership in the retirement system only under the following conditions:
- 2 Unfunded Accrued Liability; Group III Members. Amend RSA 100-A:16, II(e)(1) to read as follows:
- (e)(1) Immediately following the actuarial valuation prepared as of June 30 of each fiscal year, the board shall have an actuary determine the amount of the unfunded accrued liability for each member classification, proportionally reduced using sums dedicated as provided in RSA 21-I:95, II, as the amount of the total liabilities of the state annuity accumulation fund on account of such classification which is not dischargeable by the total of the funds in hand to the credit of the state annuity accumulation fund on account of such classification, and the aforesaid normal contributions to be made on account of the members in such classification during the remainder of their active service. The amount so determined with respect to each member classification shall be known as the "unfunded accrued liability" with respect to such classification. The accrued liability contribution percentage chargeable to a group III employer shall be determined by charging the group I member accrued liability contribution for the group III members.

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- 1 3 New Subdivision; Group III; Retirement System Defined Contribution Plan. Amend RSA 100-2 A by inserting after section 58 the following new subdivision:
 - Group III Retirement System Defined Contribution Plan
- 4 100-A:59 Definitions. In this subdivision:

- I. "Commission" means the deferred compensation commission under RSA 101-B.
- II. "Member" means a person who is required to or elects to participate in the plan established in this subdivision.
- III. "Plan" means the group III defined contribution plan established for members. The defined contribution retirement plan is a plan in which savings are accumulated in an individual account for the exclusive benefit of the member or beneficiaries. The plan is established effective July 1, 2024, at which time contributions by members begin.
- 100-A:60 Group III; Defined Contribution Plan Established. There is hereby established a retirement benefit plan for members required to, or who voluntarily elect to, enroll in the plan, who began service on or after July 1, 2024. The defined contribution retirement plan is intended to qualify under 26 U.S.C. section 401(a) and section 414(d), the Internal Revenue Code, as a qualified retirement plan established and maintained by the state for its employees. All qualifying contributions shall be held and invested by the commission. All assets received by the plan shall be held for the exclusive benefit of plan participants and their beneficiaries and applied solely as provided by the plan. The commission shall determine the terms and provisions of the plan not inconsistent with this subdivision, the Internal Revenue Code, or other applicable law and shall provide for the plan's administration.
- 100-A:61 Membership. Any state employee other than a teacher, permanent policeman, or permanent fireman, who was entered on the payroll on a full-time or eligible part-time basis on or after July 1, 2024 shall as a condition of employment be a member of the group III defined contribution plan established in this subdivision; except that membership shall be optional in the case of elected officials, officials appointed for fixed terms, unclassified state employees, or those employees of the general court who are eligible for membership in the retirement system.
 - 100-A:62 Administration; Rulemaking.
- I. The administrator of the plan shall be the executive director of the deferred compensation plan, who shall have the assistance and services of the department of administrative services for all duties and responsibilities under this subdivision. The department of administrative service may employ and assign staff to the executive director and commission for the administration of the plan.
- II. The executive director shall adopt rules, pursuant to RSA 541-A, relative to the procedure for administration of the investment options of members and beneficiaries, benefit distributions, and forms necessary for the administration of this subdivision.

- 1 100-A:63 Administration of Plan. The commission may contract with a third-party 2 administrator for the plan for the administration of assets accumulated under each participant's 3 account.
 - 100-A:64 Powers of the Commission. The commission, in addition to its powers and duties set forth in this subdivision and RSA 101-B, shall have the following powers and duties to establish the plan and trust and administer the provisions of this subdivision:
 - I. The commission may commingle or pool assets with the assets of other persons or entities.
 - II. The commission shall pay all administrative fees, costs and expenses of managing, investing and administering the plan, and the individual investment accounts from the balance of such individual investment accounts except as otherwise provided under this part or as the legislature otherwise provides by appropriation.
 - III. The commission shall have the power to change the terms of the plan as may be necessary to maintain the tax-qualified status of the plan.
 - IV. The commission may establish a process for election to participate in the plan by those employees eligible to do so for whom participation is not mandatory.
 - V. The commission may allow an inactive participant to maintain the participant's individual investment account within the plan.
 - VI. The commission shall ensure that participants are provided with educational materials about investment options and choices.
 - 100-A:65 Contributions by Member. The member participating under this subdivision shall contribute 7 percent of earnable compensation to the plan.
 - 100-A:66 Limitations on Contributions. Notwithstanding any other provisions of this plan, the annual total member contributions to each individual's account under this plan, including any additional voluntary contributions under RSA 101-B, may not exceed, for any limitation year, the amount permitted under 26 U.S.C. section 415 at any time. If the amount of a member's defined contribution plan contributions exceeds the limitation of 26 U.S.C. section 415(c) for any limitation year, the administrator shall take any necessary remedial action to correct an excess contribution.
 - 100-A:67 Contributions by Employer. Employers under the plan shall contribute an amount equal to or greater than 5 percent of a member's earnable compensation for deposit in the member's individual account.
 - 100-A:68 Investment of Individual Accounts.

- I. A member's individual account shall be invested as authorized in RSA 101-B.
- II. Except to the extent clearly set out in the terms of the investment plans offered by the employer to the employee, the employer is not liable to the participant for investment losses if the prudent investment standard has been met.

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- The employer, administrator, state, or commission, or a person or entity who is 2 otherwise a fiduciary, is not liable for any participant's investment loss that results from the 3 participant's directing the investment of plan assets allocated to the participant's account.
- 4 100-A:69 Vesting. Contributions and investment return attributable to contributions shall be 100 percent vested as of the date of contribution or accrual.
 - 100-A:70 Withdrawal of Funds. Distributions from an account of a member shall be permitted in the following circumstances, subject to applicable rules and limitations under federal regulations:
- 8 I. Termination of employment.
- 9 II. Retirement.

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- 10 III. Upon turning age 59½ and still employed as limited by federal regulations.
- 11 IV. If the member becomes disabled.
- 12 V. If the member dies.
- 13 VI. Financial hardship as defined in applicable federal regulations.
- 14 VII. Required distributions.
 - 100-A:71 Required Distributions. All payments under this subdivision shall start and be made in compliance with the minimum distribution requirements and incidental death benefit rules of Internal Revenue Code section 401(a)(9). The commission shall take any action and make any distributions it may determine are necessary to comply with those requirements.
 - 100-A:72 Health Insurance Group Insurance Inclusion. Any retired member and his or her beneficiaries may participate in the retiree group insurance programs authorized by RSA 21-I:26 through RSA 21-I:36 at his or her own expense unless otherwise provided.
 - 4 Initial Funding; Appropriation. All initial fees, costs and expenses of establishing and administering the plan and investing the assets of the plan under RSA 100-A:59 through 100-A:72 shall be borne by the state general fund until July 1, 2025, after which they will be borne by the participants and paid from assessments against the balances of the individual investment accounts as established by the commission. The governor is authorized to draw a warrant for the sum necessary for such administration out of any money in the treasury not otherwise appropriated.
 - 5 Effective Date. This act shall take effect June 30, 2024.