

Amendment to HB 1341-FN-A

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to provisions applicable to certain vested group II members in the state
4 retirement system, and relative to payment by the state of a portion of group II
5 retirement system contributions of political subdivision employers.
6

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

8

9 1 Retirement System; Definition; Earnable Compensation; Group II. Amend RSA 100-A:1,
10 XVII(a) and (b)(1) to read as follows:

11 (a) For **group I** members who have attained vested status prior to January 1, 2012 **and**
12 **group II members who commenced service prior to July 1, 2011**, the full base rate of
13 compensation paid, as determined by the employer, plus any overtime pay, holiday and vacation pay,
14 sick pay, longevity or severance pay, cost of living bonus, annual attendance stipend or bonus,
15 additional pay for extracurricular and instructional activities for full-time teachers and full-time
16 employees who are employed in paraprofessional or support position, additional pay for instructional
17 activities of full-time faculty of the community college system, and any military differential pay, plus
18 the fair market value of non-cash compensation paid to, or on behalf of, the member for meals or
19 living quarters if subject to federal income tax, but excluding other compensation except cash
20 incentives paid by an employer to encourage members to retire, supplemental pay paid by the
21 employer while the member is receiving workers' compensation, and teacher development pay that is
22 not part of the contracted annual salary. Compensation for extra and special duty, as reported by
23 the employer, shall be included but limited during the highest 3 years of creditable service as
24 provided in paragraph XVIII. However, earnable compensation in the final 12 months of creditable
25 service prior to termination of employment shall be limited to 1-1/2 times the higher of the earnable
26 compensation in the 12-month period preceding the final 12 months or the highest compensation
27 year as determined for the purpose of calculating average final compensation, but excluding the final
28 12 months. Any compensation received in the final 12 months of employment in excess of such limit
29 shall not be subject to member or employer contributions to the retirement system and shall not be
30 considered in the computation of average final compensation. Provided that, the annual
31 compensation limit for members of governmental defined benefit pension plans under section
32 401(a)(17) of the United States Internal Revenue Code of 1986, as amended, shall apply to earnable
33 compensation for all employees, teachers, permanent firemen, and permanent policemen who first

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1 become eligible for membership in the system on or after July 1, 1996. Earnable compensation shall
2 not include compensation in any form paid later than 120 days after the member's termination of
3 employment from a retirement eligible position, with the limited exceptions of disability related
4 severance pay paid to a member or retiree no later than 120 days after a decision by the board of
5 trustees granting the member or retiree disability retirement benefits pursuant to RSA 100-A:6 and
6 of severance pay which a member was entitled to be paid within 120 days after termination but
7 which, without the consent of the member and not through any fault of the member, was paid more
8 than 120 days after the member's termination. The member shall have the burden of proving to the
9 board of trustees that any severance payment paid later than 120 days after the member's
10 termination of employment is earnable compensation and meets the requirements of an asserted
11 exception to the 120-day post-termination payment requirement.

12 (b)(1) For **group I** members who have not attained vested status prior to January 1,
13 2012 **and group II members who commenced service on or after July 1, 2011**, the full base rate
14 of compensation paid, as determined by the employer, plus compensation over base pay.
15 Compensation over base pay shall include as applicable, subject to subparagraphs (2), (3), and (4),
16 any overtime pay, cost of living bonus, annual attendance stipend or bonus, annual longevity pay,
17 additional pay for extracurricular and instructional activities for full-time teachers and full-time
18 employees who are employed in paraprofessional or support position, additional pay for instructional
19 activities of full-time faculty of the community college system, compensation for extra and special
20 duty, and any military differential pay, plus the fair market value of non-cash compensation paid to,
21 or on behalf of, the member for meals or living quarters if subject to federal income tax, but
22 excluding other compensation except supplemental pay paid by the employer while the member is
23 receiving workers' compensation and teacher development pay that is not part of the contracted
24 annual salary.

25 2 Definition; Average Final Compensation; Group II. Amend RSA 100-A:1, XVIII to read as
26 follows:

27 XVIII. "Average final compensation" shall mean:

28 (a) For **group I** members who have attained vested status prior to January 1, 2012 **and**
29 **group II members who commenced service on or after July 1, 2011**, the average annual
30 earnable compensation of a member during his or her highest 3 years of creditable service, or during
31 all of the years in his or her creditable service if less than 3 years. For purposes of this calculation,
32 the inclusion of the average annual compensation for extra and special duty in the 3 years shall not
33 exceed the average annual amount of compensation for extra and special duty paid to the member
34 over the member's last 7 years of creditable service on or after July 1, [2009] **2011**, as reported by
35 the employer in accordance with RSA 100-A:16, VI, or over all of the years in his or her creditable
36 service on or after July 1, [2009] **2011** if less than 7 years.

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(b) For **group I** members who commenced service on or after July 1, 2011 or who have not attained vested status prior to January 1, 2012 **and group II members who commenced service on or after July 1, 2011**, the average annual earnable compensation of a member during his or her highest 5 years of creditable service, or during all of the years in his or her creditable service if less than 5 years. For purposes of inclusion in this calculation, the average percentage of compensation paid in excess of the full base rate of compensation in the highest 5 years shall not exceed the average percentage of compensation paid in excess of the full base rate of compensation over all the member's years of service on or after January 1, 2012, but excluding the highest 5 years.

3 Service Retirement; Group II. Amend RSA 100-A:5, II(b) -(d) to read as follows:

(b) Upon service retirement, a group II member shall receive a service retirement allowance which shall consist of:

(1) A member annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of retirement; and

(2) For members who ~~[are in vested status before January 1, 2012]~~ **commenced service before July 1, 2011**, a state annuity which, together with his or her member annuity, shall be equal to 2-1/2 percent of his or her average final compensation multiplied by the number of years of his or her creditable service not in excess of 40 years, or for members who commenced service on or after July 1, 2011, a state annuity which, together with his or her member annuity, shall be equal to 2 percent of his or her average final compensation multiplied by the number of years of his or her creditable service not in excess of 42.5 years~~[-and group II members who have not attained vested status prior to January 1, 2012 shall be as provided in the transition provisions in RSA 100-A:5, II(d) with the maximum number of years of creditable service not in excess of 40.5 years].~~

(3) Provided, however, that a group II member who commenced service on or after July 1, 2011 shall not receive a service retirement allowance until attaining the age of 52.5; but may receive a reduced allowance after age 50 if the member has at least 25 years of creditable service where the allowance shall be reduced, for each month by which the date on which benefits commence precedes the month after which the member attains 52.5 years of age, by 1/4 of one percent.

(c)(1) Notwithstanding any provision of RSA 100-A to the contrary, any group II member who is in vested status before January 1, 2012 and has retired on or after the effective date of this subparagraph after attaining the age of 45 with at least 20 years of creditable service, and any group II member who commenced service on or after July 1, 2011 and retires after the effective date of this subparagraph after attaining the age of 50 with at least 25 years of creditable service, and group II members who have not attained vested status prior to January 1, 2012 who qualify as provided in the transition provisions in RSA 100-A:5, II(d), shall receive a minimum annual service retirement allowance of \$10,000. If such group II member has elected to convert the retirement allowance into an optional allowance for the surviving spouse under RSA 100-A:13, the surviving spouse shall be entitled to a proportional share of the \$10,000.

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(2) [Repealed.]

(3) [Repealed.]

(d) Active group II members who commenced service prior to July 1, 2011 and who have not attained vested status prior to January 1, 2012 shall be subject to the following transition provisions for years of service required for regular service retirement[; **and** the minimum age for regular service retirement, ~~[and the multiplier used to calculate the retirement annuity,]~~ which shall be applicable on or after January 1, 2012 according to the following table:

<u>Creditable service</u> <u>on January 1, 2012</u>	<u>Minimum</u> <u>year of age</u>	<u>Minimum</u> <u>age attained</u>	<u>[Annuity]</u> <u>[multiplier]</u>
(1) Less than 4 years	24	age 49	[2.1%]
(2) At least 4 years but less than 6 years	23	age 48	[2.2%]
(3) At least 6 years but less than 8 years	22	age 47	[2.3%]
(4) At least 8 years but less than 10 years	21	age 46	[2.4%]

4 Disability Retirement; Group II; Ordinary Disability. Amend RSA 100-A:6, II(b) to read as follows:

(b) Upon ordinary disability retirement, the group II member shall receive an ordinary disability retirement allowance which shall consist of: a member annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her ordinary disability retirement; and a state annuity which, together with his or her member annuity, for members who ~~[are in vested status]~~ **commenced service** before ~~[January 1, 2012]~~ **July 1, 2011**, shall be equal to 2-1/2 percent of his or her average final compensation at the time of ordinary disability retirement multiplied by the number of years of his or her creditable service not in excess of 40 at the time of ordinary disability retirement, or for members who commenced service on or after July 1, 2011, shall be equal to 2 percent of his or her average final compensation at the time of ordinary disability retirement multiplied by the number of years of his or her creditable service not in excess of 42.5 at the time of ordinary disability retirement,~~[and group II members who have not attained vested status prior to January 1, 2012 shall be as provided in the transition provisions in RSA 100-A:5, II(d) with the maximum number of years of creditable service not in excess of 40.5 years]~~ provided, however, that such allowance shall not be less than 25 percent of the member's final compensation at the time of his or her disability retirement.

5 Disability Retirement; Group II; Accidental Disability. Amend RSA 100-A:6, II(d) to read as follows:

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(d) Upon accidental disability retirement, the group II member shall receive an accidental disability retirement allowance equal to $\frac{2}{3}$ of his or her average final compensation at the time of disability retirement.

(1) For members who ~~[are in vested status]~~ **commenced service** before ~~[January 1, 2012]~~ **July 1, 2011**, any group II member who has more than $26\frac{2}{3}$ years of service, a supplemental disability retirement allowance shall be paid. Such supplement shall be equal to $2\frac{1}{2}$ percent of his or her average final compensation multiplied by the number of years of his or her creditable service in excess of $26\frac{2}{3}$ but not in excess of 40 years.

(2) For members who commenced service on or after July 1, 2011, any group II member who has more than $33\frac{1}{3}$ years of service, a supplemental disability retirement allowance shall be paid. Such supplement shall be equal to 2 percent of his or her average final compensation multiplied by the number of years of his or her creditable service in excess of $33\frac{1}{3}$ but not in excess of 42.5 years.

~~[(3) For group II members who have not attained vested status prior to January 1, 2012, calculation of the supplemental allowance shall use the percentage multipliers for the corresponding years of creditable service on January 1, 2012 in the transition provisions in RSA 100-A:5, II(d) with the range for the number of excess years for the supplement adjusted proportionally.]~~

6 Maximum Retirement Benefit; Vested Status Reference Removed. Amend RSA 100-A:6-a to read as follows:

100-A:6-a Maximum Retirement Benefit.

I. Notwithstanding any other provision of this chapter to the contrary[.]:

(a) For members who commenced service before July 1, 2009, ~~[or have attained vested status prior to January 1, 2012,]~~ a member's initial calculation of the retirement benefit granted under the provisions of RSA 100-A:5 or RSA 100-A:6 shall not exceed 100 percent of the member's highest year of earnable compensation.

(b) For members who commenced service on or after July 1, 2009 ~~[and have not attained vested status prior to January 1, 2012]~~ **and before July 1, 2011**, a member's maximum retirement benefit granted under the provisions of RSA 100-A:5 or RSA 100-A:6 shall not exceed ~~[the lesser of 85 percent of the member's average final compensation or]~~ \$120,000.

(c) *For members who commenced service on or after July 1, 2011, a member's maximum retirement benefit granted under the provisions of RSA 100-A:5 or RSA 100-A:6 shall not exceed the lesser of 85 percent of the member's average final compensation or \$120,000.*

II. Nothing in this section shall affect the ability of a member to receive disability benefits pursuant to RSA 100-A:6, II(b) and (c). This provision shall not limit the application of supplemental allowances.

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1 7 Method of Financing; Deductions from Compensation. Amend RSA 100-A:16, I(aa) to read as
2 follows:

3 (aa) The board of trustees shall certify to the proper authority or officer responsible for
4 making up the payroll of each employer, and such authority or officer shall cause to be deducted
5 from the compensation of each member, except group II members who ~~[are in vested status]~~
6 **commenced service** before ~~[January 1, 2012]~~ **July 1, 2011** with creditable service in excess of 40
7 years, and group II members who commenced service on or after July 1, 2011 ~~[or who have not~~
8 ~~attained vested status prior to January 1, 2012]~~ with creditable service in excess of 42.5 years as
9 provided in RSA 100-A:5, II(b) and RSA 100-A:6, II(b), on each and every payroll of such employer
10 for each and every payroll period, the percentage of earnable compensation applicable to such
11 member. No deduction from earnable compensation under this paragraph shall apply to any group
12 II member who ~~[is in vested status]~~ **commenced service** before ~~[January 1, 2012]~~ **July 1, 2011** with
13 creditable service in excess of 40 years, and any group II member who commenced service on or after
14 July 1, 2011 ~~[or who have not attained vested status prior to January 1, 2012]~~ with creditable service
15 in excess of 42.5 years as provided in RSA 100-A:5, II(b) and RSA 100-A:6, II(b), and this provision
16 for such members shall not affect the method of determining average final compensation as provided
17 in RSA 100-A:1, XVIII. In determining the amount earnable by a member in a payroll period, the
18 board may consider the rate of compensation payable to such member on the first day of a payroll
19 period as continuing throughout the payroll period and it may omit deduction from compensation for
20 any period less than a full payroll period if such person was not a member on the first day of the
21 payroll period, and to facilitate the making of deductions it may modify the deduction required of
22 any member by such an amount as shall not exceed 1/10 of one percent of the annual earnable
23 compensation upon the basis of which such deduction is made. The amounts deducted shall be
24 reported to the board of trustees. Each of such amounts, when deducted, shall be paid to the
25 retirement system at such times as may be designated by the board of trustees and credited to the
26 individual account, in the member annuity savings fund, of the member from whose compensation
27 the deduction was made.

28 8 Retirement System; Group II; Employer Contributions; State Share of Contributions. Amend
29 RSA 100-A:16, II(b) to read as follows:

30 (b) The contributions of each employer for benefits under the retirement system on
31 account of group II members shall consist of a percentage of the earnable compensation of its
32 members to be known as the "normal contribution," and an additional amount to be known as the
33 "accrued liability contribution;" provided that beginning with state fiscal year ~~[2013]~~ **2022** and for
34 each state fiscal year thereafter, any employer ~~[shall pay the full amount of such total contributions]~~
35 **other than the state, shall pay 85 percent of such total contributions, and 15 percent**
36 **thereof shall be paid by the state; and provided further that, in case of group II members**
37 **employed by the state, the state shall pay both normal and accrued liability contributions.**

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1 The rate percent of such normal contribution, including contributions on behalf of group II members
2 whose group II creditable service is in excess of 40 years, in each instance shall be fixed on the basis
3 of the liabilities of the system with respect to the particular members of the various member
4 classifications as shown by actuarial valuations, except as provided in subparagraph (i).

5 9 Repeal. RSA 100-A:16, II(c-1) relative to employer contributions for fiscal year 2012, is
6 repealed.

7 10 Effective Date. This act shall take effect 60 days after its passage.

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2020-0137h

AMENDED ANALYSIS

This bill changes the application of 2011 amendments to certain group II retirement system provisions to not apply to group II members who commenced service before July 1, 2011. The bill also provides that the state shall pay 15 percent of contributions of retirement system employers other than the state for group II members.