

Amendment No. 2 to HB0513

Ramsey  
Signature of Sponsor

**AMEND Senate Bill No. 1355**

**House Bill No. 513\***

by adding the following new sections immediately preceding the penultimate section and renumbering the subsequent sections accordingly:

SECTION 14. Tennessee Code Annotated, Section 8-36-920, is amended by adding the following new subsection:

(g) Notwithstanding subdivision (d)(1)(A), deposits of employer contributions into the stabilization reserve trust account shall be suspended effective July 1 of any given year next following the most recent actuarial valuation for an employer whose stabilization reserve trust account equals or exceeds a certain maximum amount that is determined by the board of trustees. The amount shall be expressed in dollars, as a percentage, or other form as shall be determined at the sole discretion of the board. The board, in consultation with the actuary, shall establish the methodology and procedures to be used in ascertaining the maximum amount. Deposits into the stabilization reserve trust account shall be reinstated for the employer effective July 1 of any given year next following the most recent actuarial valuation when the total amount in the employer's stabilization reserve trust account is less than the maximum amount adopted by the board pursuant to this subsection.

SECTION 15. Tennessee Code Annotated, Section 8-36-922(a), is amended by adding the following new subdivisions:

(3) Notwithstanding this section or any other law to the contrary, should employer contributions attributable to federal funds not be deposited into the stabilization reserve trust account pursuant to § 8-36-920(d)(2), the board may, at its sole discretion

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and in consultation with the actuary, modify the employer contribution rate set forth in subdivision (a)(1).

(4) Notwithstanding this section or any other law to the contrary, employer contributions shall be based solely on subdivision (a)(1)(A) on July 1 of any given year for an employer whose deposits into the stabilization reserve trust account are suspended pursuant to § 8-36-920(g). Nothing in this subdivision (a)(4) shall be deemed to give any participating employer or any participant a valid claim or cause of action for refund or credit for any sum or sums paid or to be paid to the hybrid plan.

SECTION 16. Tennessee Code Annotated, Section 8-36-922(b), is amended by deleting the first two sentences thereof and by substituting instead the following:

The actuary of the retirement system shall compute the normal contribution rate and the accrued liability contribution rate payable to the defined benefit component of the plan for each account described in § 8-36-920(e); provided, however, the computation shall not include the stabilization reserve trust account and shall be made by an actuarial valuation in the manner provided by chapter 37, part 3 of this title; provided, further, that the entry age actuarial cost method, as defined by the Actuarial Standards Board, shall be used in determining normal costs and contributions for unfunded accrued liabilities.

SECTION 17. Tennessee Code Annotated, Section 8-35-203(a), is amended by deleting the subsection and by substituting instead the following:

(a)

(1) Membership in the retirement system for employees of employers that are admitted as provided in this part shall be:

(A) Optional for all employees in the service of the employer on the date the approval is given except as provided in subdivision (a)(1)(C);

(B) Mandatory for all eligible employees entering the service of the employer thereafter; and

(C)

(i) If the employer continues to maintain a pre-existing pension plan that is closed to new membership on the date of the employer's participation date in the retirement system, the employer may, by resolution duly adopted by its chief legislative body, authorize its current employees who participate in the pre-existing plan the choice of maintaining membership in the pre-existing plan or joining the retirement system; provided, that allowing such choice meets all applicable state and federal requirements, including § 414(h) of the Internal Revenue Code (26 U.S.C. § 414(h)), that are necessary for the retirement system to maintain its status as a qualified plan under the Internal Revenue Code.

(ii) The election to join the retirement system shall be on a form prescribed by the retirement system and shall be filed with the retirement system. Any such election shall be irrevocable.

(iii) Notwithstanding § 8-37-202 or any other law to the contrary, any employer described in subdivision (a)(1)(C)(i) may elect to set the employee contribution rate for its employees at the same rate as required under the employer's pre-existing plan.

The election must be made by the employer prior to the employer's effective date of participation in the retirement system and must be approved by the board of trustees.

(2) Credit for such periods of previous service as shall be certified as creditable service by the employer for service rendered to the employer or its predecessor, or in any other capacity approved by the employer and the board, for which the employer is willing to make accrued liability contributions shall be credited to employees who meet all of the following conditions:

(A) The employee must have been employed by the employer on the date the approval is given and continuously for the thirty (30) days immediately preceding that date; provided, that in the event the employee was not continuously employed by the employer from the period of previous service claimed through and including the date the approval is given, the employee must have been employed by the employer on the date the approval is given and continuously for the six (6) months immediately preceding or after that date;

(B) The employee must have become a member of the retirement system within thirty (30) days after the approval is given;

(C) The employee must pay whatever back contributions and interest is due to establish service authorized by the employer. Subject to subdivision (a)(2)(D), such payment may be funded in whole or in part from amounts transferred from any pre-existing pension plan maintained on behalf of the employee by the employer, from other eligible retirement accounts as defined in § 8-37-220, or from other funds available to the employee; and

(D)

(i) If the employer maintained a pre-existing public employee retirement system as defined in § 8-35-111 on behalf of the employee during any period of the previous service authorized by the employer under this subdivision (a)(2), then the employee shall have six (6) months from the employer's participation date in the retirement system to elect to establish the previous service rendered while a participant in the pre-existing plan by making the required payment and by forfeiting the employee's right to any employer contributions and interest thereon, and to any service credit in the pre-existing plan if any part of the service credit was funded through contributions made by the employer.

(ii) Any employee who fails to make the election provided for in subdivision (a)(2)(D)(i) shall not later be eligible to establish the previous service rendered while a participant in the pre-existing plan.

(3) After becoming a member, service by such employee for which contributions are made shall be considered creditable service.

SECTION 18. Tennessee Code Annotated, Section 8-35-255(i)(1), is amended by deleting the language "this section" and by substituting instead the language "§ 8-35-203(a)(1)(C)(iii), § 8-35-254, or § 8-37-202, as applicable".

SECTION 19. Tennessee Code Annotated, Section 8-35-256(i)(1), is amended by deleting the language "this section" and by substituting instead the language "§ 8-35-203(a)(1)(C)(iii), § 8-35-254, or § 8-37-202, as applicable".

SECTION 20. Tennessee Code Annotated, Section 8-36-919(a)(1), is amended by deleting the language "; and" and by substituting instead the language "except as provided in subdivision (a)(3);".

SECTION 21. Tennessee Code Annotated, Section 8-36-919(a)(2), is amended by deleting the period “.” at the end of the subdivision and by substituting instead the language “; and”.

SECTION 22. Tennessee Code Annotated, Section 8-36-919(a), is amended by adding the following new subdivision:

(3)

(A) If the political subdivision continues to maintain a pre-existing pension plan that is closed to new membership on the date of the political subdivision’s participation date in the hybrid plan, the political subdivision may, by resolution duly adopted by its chief legislative body, authorize its current employees who participate in the pre-existing plan the choice of maintaining membership in the pre-existing plan or joining the hybrid plan; provided, that allowing such choice meets all applicable state and federal requirements, including § 414(h) of the Internal Revenue Code (26 U.S.C. § 414(h)), that are necessary for the hybrid plan to maintain its status as a qualified plan under the Internal Revenue Code.

(B) The election to join the hybrid plan shall be on a form prescribed by the retirement system and shall be filed with the retirement system. Any such election shall be irrevocable.

(C) Notwithstanding § 8-36-904 or any other law to the contrary, any political subdivision described in subdivision (a)(3)(A) may elect to set the employee contribution rate for its employees at the same rate as required under the political subdivision’s pre-existing plan. The election must be made by the political subdivision prior to the political subdivision’s effective date of participation in the hybrid plan and must be approved by the board of trustees. If the approved employee contribution rate is set at an amount less than five

percent (5%) of the employees' earnable compensation, the four percent-employer contribution rate described in § 8-36-922 shall be increased by the percentage difference between five percent (5%) and the approved employee contribution rate.

SECTION 23. Tennessee Code Annotated, Section 8-36-919(b), is amended by deleting from the first sentence the language "Any political subdivision" and by substituting the language "Except as otherwise specifically provided in this part, any political subdivision".

SECTION 24. Tennessee Code Annotated, Section 8-36-922(c)(1)(D), is amended by deleting the language "from five percent (5%) to six percent (6%)" and by substituting instead the language "by one percent (1%)".

SECTION 25. Tennessee Code Annotated, Section 8-36-922(d)(1)(D), is amended by deleting the language "from five percent (5%) to six percent (6%)" and by substituting instead the language "by one percent (1%)".

SECTION 26. Tennessee Code Annotated, Section 8-36-903, is amended by adding the following as a new subsection (d) and by redesignating existing subsection (d) accordingly:

(d) Any teacher as defined in § 8-34-101(46)(B) who is a member of the retirement system pursuant to § 8-35-101 shall have the option to transfer from the retirement system to the hybrid plan on a prospective basis; provided, that allowing such choice meets all applicable state and federal requirements, including § 414(h) of the Internal Revenue Code (26 U.S.C. § 414(h)), that are necessary for the retirement system to maintain its status as a qualified plan under the Internal Revenue Code. The election to transfer shall be made on a form prescribed by the retirement system and filed with the retirement system. Any such election shall become effective on the first day of the month next following the month the form is filed with the retirement system, and shall be irrevocable. The actuarial value of accrued benefits earned prior to the effective date of the transfer shall be determined under the applicable provisions of the

retirement system in effect on the date of the transfer. The teacher shall thereafter be subject to the applicable provisions of this part.

SECTION 27. Tennessee Code Annotated, Title 8, Chapter 25, Part 3, is amended by adding the following as a new, appropriately designated section:

The state treasurer, with the approval of the commissioner of finance and administration, may adopt a new feature to the plan that would provide for an alternative social security replacement plan that satisfies the requirements of Internal Revenue Code § 3121(b)(7)(F), as may be amended, and any rules and regulations promulgated thereunder for any classes of state employees, including employees of institutions of higher education, whose service is not covered by an agreement entered into under § 8-38-103. Any such plan may require the withholding as deferred compensation from the wages otherwise payable to those employees of up to seven and one-half percent (7½%) of wages, as the term “wages” is defined for social security purposes, or such other amount as may be required as an alternative to social security contributions.