

# SENATE AMENDMENT

AMENDMENT NO. \_\_\_\_\_

Good/Downey  
January 10, 2012

ADOPTED	TABLED	CARRIED OVER	FAILED	RECONSIDERED

\_\_\_\_\_  
Clerk of the Senate

ADOPTION NO. \_\_\_\_\_

**BILL NO: H. 3066**

(Reference is to Printer's Date 4/6/11-S.)

## **PERFECTING AMENDMENT**

Senator \_\_\_\_\_ proposed the following amendment (NBD\11979DG12):

Amend the committee report, as and if amended, SECTION 2, Section 1-11-20, by striking subsections (I) and (J) and inserting:

/ (I) Effective July 1, 2012, the following offices, divisions, or components of the State Budget and Control Board are transferred to, and incorporated into, an administrative agency of state government to be known as the South Carolina Public Employee Benefit Trust:

(1) the Employee Insurance Program;

(2) the Retirement Division.

(J) Effective July 1, 2012, the State Budget and Control Board is abolished. /

Amend the committee report further, as and if amended, by adding an appropriately numbered PART to read:

/ Part \_\_\_\_

## Subpart 1

### South Carolina Public Employee Benefit Trust

SECTION \_\_\_\_ . A. Title 9 of the 1976 Code is amended by adding:

#### “CHAPTER 4

### South Carolina Public Employee Benefit Trust

#### Article 1

#### General Provisions

Section 9-4-10. (A) Effective, July 1, 2012, there is created the South Carolina Public Employee Benefit Trust. The trust is comprised of the employee insurance division, the retirement systems division, and the investment division. The governing body of the trust is a board of directors consisting of nine members. The functions of the trust must be performed, exercised, and discharged under the supervision and direction of the board. The board may organize its staff as it considers appropriate to carry out the various duties, responsibilities, and authorities assigned to it and to its various divisions. The board may delegate to one or more officers, agents, or employees the powers and duties it determines are necessary for the effective, efficient, operation of the trust, including the hiring of an executive director of the trust. The executive director must be employed by the trust and compensation of the executive director may be fixed by the board in its judgment.

(B) The board is composed of:

- (1) three members appointed by the Governor, one of which must be a representative of local government;
- (2) two members appointed by the President Pro Tempore of the Senate, one of which must be a representative of the Police Officers Retirement System;

- (3) one member appointed by the Chairman of the Senate Finance Committee;
- (4) two members appointed by the Speaker of the House of Representatives, one of which must be a representative of the South Carolina Retirement System; and
- (5) one member appointed by the Chairman of the House Ways and Means Committee.

The members that represent local government, the Police Officers Retirement System, and the South Carolina Retirement System may be active or retired. However, if the member is active, the member may only serve with the permission of the member's employer.

(C) A person may not be appointed to the board unless the person possesses at least one of the following qualifications:

- (1) the Chartered Financial Analyst credential of the CFA Institute;
- (2) the Certified Financial Planner credential of the Certified Financial Planner Board of Standards;
- (3) at least twenty years of professional actuarial experience, including at least ten years as an enrolled actuary licensed by a joint board of the Department of the Treasury and the Department of Labor to perform a variety of actuarial takes required of pension plans in the United State by the Employee Retirement Income Security Act of 1974;
- (4) at least twenty years professional teaching experience in economics or finance, of which at least ten years must have occurred at a doctorate granting university, master's college or university, or a baccalaureate college as classified by the Carnegie Foundation;
- (5) an earned Ph.D. in economics or finance from a doctorate granting institution as classified by the Carnegie Foundation;
- (6) an earned credential from the Institute of Internal Auditors as a certified internal auditor; or
- (7) at least twenty years of professional experience in public budgeting, public finance or public financial auditing and a bachelors, masters or doctorate in economics, finance or public administration.

(D) Members of the board shall serve at the pleasure of the member's appointing official. Upon a member's appointment, the appointing official shall certify to the Secretary of State that the appointee meets or exceeds the qualifications set forth in subsection (C).

(E) The members shall select one member to serve as chairman and shall select those other officers it determines necessary.

(F) Beginning in fiscal year 2012-2013, members must receive an annual salary of twenty thousand dollars. Each year thereafter, members shall receive twenty thousand dollars plus the aggregate percentage of any base pay increases for state employees approved by the General Assembly thereafter. Compensation must be paid equitably from general funds and retirement system funds based on the proportionate amount of time and expertise each function requires. Members may receive the mileage, subsistence, and per diem authorized by law for members of state boards, commissions, and committees as a retirement system expense to be paid from approved accounts funded by general funds and retirement system funds in the proportion that compensation is paid.

(G) Minimally, the board shall meet monthly.

Section 9-4-20. The South Carolina Public Employee Benefit Trust shall operate an employee insurance program division to administer insurance programs pursuant to Article 5, Chapter 11, Title 1.

Section 9-4-30. (A) The South Carolina Public Employee Benefit Trust shall operate a retirement division to administer the various retirement system and retirement programs pursuant to Title 9 and to administer the deferred compensation program pursuant to Chapter 23, Title 8.

(B)(1) Notwithstanding the provisions of Section 9-1-1020 relating to employee contributions to the employee annuity savings fund, effective July 1, 2012, the board of directors shall determine employee and employer contributions to the fund. The employee and employer contribution rates on June 30, 2012, shall remain in effect until such time that the board determines the rates to be different.

(2) If the board determines an increase in employee and employer contribution rates are necessary to insure fiscal stability, the board shall increase the rates in a manner that causes the anticipated cumulative increase in funds to be bore equally by the employee and employer.

(3) Notwithstanding subitem (2), the board may set a maximum employer contribution percentage. If an increase in rates is needed and the employer contribution has already reached its maximum percentage, the employee may bear the responsibility of a disproportionate share or all of the anticipated cumulative increase.

Section 9-4-40. (A) The South Carolina Public Employee Benefit Trust shall operate an investment division to invest the funds of the retirement system, as it is defined in Section 9-4-310(8).

(B) The board through its investment division shall invest the funds of the retirement system. All of the powers and duties of the Retirement System Investment Commission as investor in equity securities and investing in fixed income instruments are transferred to and devolved upon the board. To assist the board in its investment function, it shall employ a chief investment officer, who under the direction and supervision of the board, and as its agent, shall develop and maintain annual investment plans and invest and oversee the investment of retirement system funds. The chief investment officer serves at the pleasure of the board and must receive the compensation the board determines appropriate. The board may employ the other professional, administrative, and clerical personnel it determines necessary and fix their compensation. All employees of the investment division of the board are employees at will. The compensation of the chief investment officer and other employees of the board is not subject to the state compensation plan.

(C) The administrative costs of the investment division of the board must be paid from the earnings of the state retirement system in the manner provided in Section 9-1-1310.

Section 9-4-50. Each year in the general appropriations act, the General Assembly shall appropriate sufficient funds to the Budget and Control Board, or its successor agency, to employ a private audit firm to perform an audit on the South Carolina Public Employee Benefit Trust. The audit firm shall be selected by the Budget and Control Board, or its successor agency. The report from the previous fiscal year must be completed by January fifteenth. Upon completion, the report must be submitted to the Governor, the President Pro Tempore, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee.

Section 9-4-60. (A) The South Carolina Public Employee Benefit Trust shall maintain a transaction register that includes a complete record of all funds expended, from whatever source for whatever purpose. The register must be prominently posted on the trust's Internet website and made available for public viewing and downloading.

(1)(a) The register must include for each expenditure:

- (i) the transaction amount;
- (ii) the name of the payee;

(iii) the identification number of the transaction; and

(iv) a description of the expenditure, including the source of funds, a category title, and an object title for the expenditure.

(b) The register must include all reimbursements for expenses, but must not include an entry for:

(i) salary, wages, or other compensation paid to individual employees; and

(ii) retirement benefits, deferred compensation plan distributions, insurance reimbursements, or other payments paid to individual employees, members, or participants, as applicable, pursuant to programs administered by the board.

(c) The register must not include a social security number.

(d) The register must be accompanied by a complete explanation of any codes or acronyms used to identify a payee or an expenditure.

(e) The register may exclude any information that can be used to identify an individual employee or student.

(f) This section does not require the posting of any information that is not required to be disclosed under Chapter 4, Title 30.

(2) The register must be searchable and updated at least once a month. Each monthly register must be maintained on the Internet website for at least three years.

(B) Any information that is expressly prohibited from public disclosure by federal or state law or regulation must be redacted from any posting required by this section.

(C) If the trust has a question or issue relating to technical aspects of complying with the requirements of this section or the disclosure of public information under this section, it shall consult with the Comptroller General's Office, which may provide guidance to the trust.

### Article 3

#### Investment Division

Section 9-4-310. As used in this article, unless a different meaning is plainly required by the context:

(1) 'Assets' means all funds, investments, and similar property of the retirement system.

(2) ‘Beneficiary’ means a person, other than the participant, who is designated by a participant or by a retirement program to receive a benefit under the program.

(3) ‘Board’ means the board of directors of the South Carolina Public Employee Benefit Trust acting as trustee of the retirement system.

(4) ‘Fiduciary’ means a person who:

- (a) exercises any authority to invest or manage assets of a system;
- (b) provides investment advice for a fee or other direct or indirect compensation with respect to assets of a system or has any authority or responsibility to do so;
- (c) is a member of the board; or
- (d) is the board’s chief investment officer.

(5) ‘Participant’ means an individual who is or has been an employee enrolled in a retirement program and who is or may become eligible to receive or is currently receiving a benefit under the program. The term does not include an individual who is no longer an employee of an employer as defined by laws governing the retirement system and who has withdrawn his contributions from the retirement system.

(6) [Reserved]

(7) ‘Retirement program’ means a program of rights and obligations which a retirement system establishes or maintains and which, by its express terms or as a result of surrounding circumstances:

- (a) provides retirement benefits to qualifying employees and beneficiaries; or
- (b) results in a deferral of income by employees for periods extending to the termination of covered employment or beyond.

(8) ‘Retirement system’ means the South Carolina Retirement System, Retirement System for Judges and Solicitors, Retirement System for Members of the General Assembly, National Guard Retirement System, and Police Officers Retirement System established pursuant to Chapters 1, 8, 9, 10 and 11 of Title 9.

(9) ‘Trustee’ means the board.

Section 9-4-320. (A) All assets of a retirement system are held in trust. The board has the exclusive authority, subject to this article and Section 9-1-1310, to invest and manage those assets.

(B) If the retirement system invests in a security issued by an investment company registered under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1, et seq.), the assets of the system include the security, but not assets of the investment company.

(C) The board shall hold the assets of the retirement systems in a group trust under Section 401(a)(24) of the Internal Revenue Code that meets the requirements of Revenue Ruling 81-100, 1981-1 C.B. 326, as amended by Revenue Ruling 2004-67. Any group trust shall be operated or maintained exclusively for the commingling and collective investment of funds from other trusts that it holds. The board shall be permitted to hold in this group trust funds that consist exclusively of trust assets held under plans qualified under Internal Revenue Code Section 401(a), individual retirement accounts that are exempt under Internal Revenue Code Section 408(e), and eligible governmental plans that meet the requirements of Internal Revenue Code Section 457(b). For this purpose, a trust includes a custodial account under Internal Revenue Code Section 401(f) or under Internal Revenue Code Section 457(g)(3).

Section 9-4-330. (A) The board may delegate functions that a prudent person acting in a like capacity and familiar with those matters could properly delegate under the circumstances but final authority to invest cannot be delegated.

(B) The board shall exercise reasonable care, skill, and caution in:

- (1) selecting an agent;
- (2) establishing the scope and terms of the delegation, consistent with the purposes and terms of the retirement program; and
- (3) periodically reviewing the agent's performance and compliance with the terms of the delegation.

(C) In performing a delegated function, an agent owes a duty to the retirement system and to its participants and beneficiaries to comply with the terms of the delegation and, if a fiduciary, to comply with the duties imposed by Section 9-16-40.

(D) A board member who complies with subsections (A) and (B) is not liable to the retirement system or to its participants or beneficiaries for the decisions or actions of the agent to whom the function was delegated.

(E) By accepting the delegation of a function from the board, an agent submits to the jurisdiction of the courts of this State.

(F) The board may limit the authority of an agent to delegate functions under this section.



Section 9-4-340. A trustee, board member, or other fiduciary shall discharge duties with respect to a retirement system:

- (1) solely in the interest of the retirement systems, participants, and beneficiaries;
- (2) for the exclusive purpose of providing benefits to participants and beneficiaries and paying reasonable expenses of administering the system;
- (3) with the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
- (4) impartially, taking into account any differing interests of participants and beneficiaries;
- (5) incurring only costs that are appropriate and reasonable; and
- (6) in accordance with a good faith interpretation of this article.

Section 9-4-350. (A) In investing and managing assets of a retirement system pursuant to Section 9-4-340, the board:

- (1) shall consider among other circumstances:
  - (a) general economic conditions;
  - (b) the possible effect of inflation or deflation;
  - (c) the role that each investment or course of action plays within the overall portfolio of the retirement system;
  - (d) needs for liquidity, regularity of income, and preservation or appreciation of capital; and
  - (e) the adequacy of funding for the plan based on reasonable actuarial factors;
- (2) shall diversify the investments of the retirement system unless the board reasonably determines that, because of special circumstances, it is clearly prudent not to do so;
- (3) shall make a reasonable effort to verify facts relevant to the investment and management of assets of a retirement system;
- (4) may invest in any kind of property or type of investment consistent with this article and Section 9-1-1310;
- (5) may consider benefits created by an investment in addition to investment return only if the board determines that the investment providing these collateral benefits would be prudent even without the collateral benefits.

(B) The board shall adopt a statement of investment objectives and policies for the retirement system. The statement must include the desired rate of return on assets overall, the desired rates of return and acceptable levels of risk for each

asset class, asset-allocation goals, guidelines for the delegation of authority, and information on the types of reports to be used to evaluate investment performance. At least annually, the board shall review the statement and change or reaffirm it. The relevant portion of this statement may constitute parts of the annual investment plan required pursuant to Section 9-4-330.

Section 9-4-355. (A) As used in this section:

(1) ‘Active business operations’ means a company engaged in business operations that provide revenue to the government of Sudan or a company engaged in oil-related activities.

(2) ‘Business operations’ means maintaining, selling, or leasing equipment, facilities, personnel, or any other apparatus of business or commerce in Sudan, including the ownership or possession of real or personal property located in Sudan.

(3) ‘Company’ means a sole proprietorship, organization, association, corporation, partnership, venture, or other entity, its subsidiary or affiliate that exists for profit-making purposes or to otherwise secure economic advantage. ‘Company’ also means a company owned or controlled, either directly or indirectly, by the government of Sudan, that is established or organized under the laws of or has its principal place of business in the Republic of the Sudan.

(4) ‘Government of Sudan’ means the government of Sudan or its instrumentalities as further defined in the Darfur Peace and Accountability Act of 2006.

(5) ‘Invest’ or ‘investment’ means the purchase, ownership, or control of stock of a company, association, or corporation, the capital stock of a mutual water company or corporation, bonds issued by the government or a political subdivision of Sudan, corporate bonds, or other debt instruments issued by a company. It does not include indirect beneficial ownership through index funds, commingled funds, limited partnerships, derivative instruments, or the like.

(6) ‘Military equipment’ means weapons, arms, or military defense supplies.

(7) ‘Oil-related activities’ means, but is not limited to, the export of oil, extracting or producing oil, exploration for oil, or the construction or maintenance of a pipeline, refinery, or other oil field infrastructure.

(8) ‘Public employee retirement funds’ means those assets as defined in Section 9-4-10(1).

(9) ‘Substantial action’ means a boycott of the government of Sudan, curtailing business in Sudan until that time described in subsection (E), selling company assets, equipment, or real and personal property located in Sudan, or undertaking significant humanitarian efforts in the eastern, southern, or western regions of Sudan.

(10) ‘Sudan’ means the Republic of the Sudan, a territory under the administration or control of the government of Sudan, including, but not limited to, the Darfur region, or an individual, company, or public agency located in Khartoum, northern Sudan, or the Nile River Valley that supports the Republic of the Sudan.

(B) The board shall not invest public employee retirement funds in a company with business operations in Sudan if:

(1)(a) the company is engaged in active business operations in Sudan; or

(b) the company is not engaged in oil-related activities and lacks significant business operations in the eastern, southern, and western regions of Sudan; and

(2)(a) the company is engaged in oil-related activities or energy or power-related operations, or contracts with another company with business operations in the oil, energy, and power sectors of Sudan, and the company has failed to take substantial action related to the government of Sudan because of the Darfur genocide; or

(b) the company has demonstrated complicity in the Darfur genocide.

(C) Notwithstanding subsection (B), the board shall not invest public employee retirement funds in a company that supplies military equipment within the borders of Sudan. If a company provides equipment within the borders of Sudan that may be readily used for military purposes, including, but not limited to, radar systems and military-grade transport vehicles, there is a strong presumption against investing in that company unless that company implements safeguards to prevent the use of that equipment for military purposes.

(D)(1) Nothing in this section requires the board to take action as described in this section unless the board determines, in good faith, that the action described in this section is consistent with the fiduciary responsibilities of the board as described in this article and there are appropriated funds of the State to absorb the expenses of the board to implement this section.

(2) Subsection (B) does not apply to:

(a) investments in a company that is primarily engaged in supplying goods or services intended to relieve human suffering in Sudan;

(b) investments in a company that promotes health, education, journalistic, or religious activities in or welfare in the western, eastern, or southern regions of Sudan;

(c) investments in a United States company that is authorized by the federal government to have business operations in Sudan.

(E) The restrictions provided for in this section apply only until:

(1) the government of Sudan halts the genocide in Darfur for twelve months as determined by both the Department of State and the Congress of the United States; or

(2) the United States revokes its current sanctions against Sudan.

(F) Present, future, and former board members, officers, and employees of the State Budget and Control Board, the Retirement System Investment Commission, the South Carolina Public Employee Benefit Trust, and contract investment managers retained by the commission must be indemnified from the general fund of the State and held harmless by the State from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including court costs and attorney's fees, and against all liability, losses, and damages of any nature whatsoever that these present, future, or former board members, officers, employees, or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to this section.

Section 9-4-360. (A) Compliance by the trustee, board, or other fiduciary with Sections 9-4-330, 9-4-340, and 9-4-350 must be determined in light of the facts and circumstances existing at the time of the trustee's, board's, or fiduciary's decision or action and not by hindsight.

(B) The board's investment and management decisions must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the retirement system.

Section 9-4-370. (A) A board member or other fiduciary who breaches a duty imposed by this article is personally liable to the retirement system for any losses resulting from the breach and any profits resulting from the breach or made by the board member or other fiduciary through use of assets of the system by the board member or other fiduciary. The

board member or other fiduciary is subject to other equitable remedies, as the court considers appropriate, including removal.

(B) An agreement that purports to limit the liability of a trustee or other fiduciary for a breach of duty under this article is void.

(C) The retirement system may insure a trustee, board member, fiduciary, or itself against liability or losses occurring because of a breach of duty under this article.

(D) A trustee, board member, or other fiduciary may insure against personal liability or losses occurring because of a breach of duty under this article if the insurance is purchased or provided by the individual trustee, board member, or fiduciary, but a fiduciary who obtains insurance pursuant to this article must disclose all terms, conditions, and other information relating to the insurance policy to the retirement system.

Section 9-4-380. (A) Meetings by the board while acting as trustee of the retirement system, or meetings of the board, or by its fiduciary agents to deliberate about, or make tentative or final decisions on, investments or other financial matters may be in executive session if disclosure of the deliberations or decisions would jeopardize the ability to implement a decision or to achieve investment objectives.

(B) A record of the board or of its fiduciary agents that discloses deliberations about, or a tentative or final decision on, investments or other financial matters is exempt from the disclosure requirements of Chapter 4 of Title 30, the Freedom of Information Act, to the extent and so long as its disclosure would jeopardize the ability to implement an investment decision or program or to achieve investment objectives.

Section 9-4-390. (A) The board shall provide investment reports at least quarterly during the fiscal year to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and other appropriate officials and entities.

(B) In addition to the quarterly reports provided in subsection (A), the board shall provide an annual report to the Speaker of the House of Representatives, members of the House of Representatives or Senate, but only upon their request, the President Pro Tempore of the Senate, and other appropriate officials and entities of the investment status of the retirement systems. The report must contain:

(1) a description of a material interest held by a trustee, fiduciary, or an employee who is a fiduciary with respect to the investment and management of assets of the system, or by a related person, in a material transaction with the system within the last three years or proposed to be effected;

(2) a schedule of the rates of return, net of total investment expense, on assets of the system overall and on assets aggregated by category over the most recent one-year, three-year, five-year, and ten-year periods, to the extent available, and the rates of return on appropriate benchmarks for assets of the system overall and for each category over each period;

(3) a schedule of the sum of total investment expense and total general administrative expense for the fiscal year expressed as a percentage of the fair value of assets of the system on the last day of the fiscal year, and an equivalent percentage for the preceding five fiscal years; and

(4) a schedule of all assets held for investment purposes on the last day of the fiscal year aggregated and identified by issuer, borrower, lessor, or similar party to the transaction stating, if relevant, the asset's maturity date, rate of interest, par or maturity value, number of shares, costs, and fair value and identifying an asset that is in default or classified as uncollectible.

These disclosure requirements are cumulative to and do not replace other reporting requirements provided by law.

Section 9-4-400. (A) The board shall meet no later than May first of each year to adopt the proposed annual investment plan for the retirement systems for the next fiscal year. The annual investment plan must be developed by the chief investment officer. No later than April first of each year, the chief investment officer shall submit the proposed plan to the board. Amendments may be made to the plan by the board during the fiscal year.

(B) The board shall meet at least once during each fiscal-year quarter for the purposes of reviewing the performance of investments, assessing compliance with the annual investment plan, and determining whether to amend the plan. The board shall meet at such other times as are set by the board or the chairman.

(C) The board may discuss, deliberate on, and make decisions on a portion of the annual investment plan or other related financial or investment matters in executive session if disclosure thereof would jeopardize the ability to implement that portion of the plan or achieve investment objectives.

(D) A record of the board that discloses discussions, deliberations, or decisions on portions of the annual investment plan or other related financial or investment matters is not a public record under Section 30-4-20 to the extent and so long as its disclosure would jeopardize the ability to implement that portion of the plan or achieve investment objectives.

(E) The board may retain independent advisors to assist it and periodically shall provide for an outside evaluation of the investment strategy.

Section 9-4-410. (A) The board shall provide the chief investment officer with a statement of general investment objectives. The board shall also provide the chief investment officer with a statement of actuarial assumptions developed by the board's actuary and approved by the board. The board shall review the statement of general investment objectives annually for the purpose of affirming or changing it and advise the chief investment officer of its actions. The retirement system shall provide the board and its chief investment officer that data or other information needed to prepare the annual investment plan.

(B) The annual investment plan must be consistent with actions taken by the board pursuant to subsection (A) and must include, but is not limited to, the following components:

- (1) general operational and investment policies;
- (2) investment objectives and performance standards;
- (3) investment strategies, which may include indexed or enhanced indexed strategies as the preferred or exclusive strategies for equity investing, and an explanation of the reasons for the selection of each strategy;
- (4) industry sector, market sector, issuer, and other allocations of assets that provide diversification in accordance with prudent investment standards, including desired rates of return and acceptable levels of risks for each asset class;
- (5) policies and procedures providing flexibility in responding to market contingencies;
- (6) procedures and policies for selecting, monitoring, compensating, and terminating investment consultants, equity investment managers, and other necessary professional service providers; and
- (7) methods for managing the costs of the investment activities.

(C) In developing the annual investment plan, the chief investment officer shall:

- (1) diversify the investments of the retirement systems, unless the board reasonably determines that, because of special circumstances, it is clearly not prudent to do so; and

- (2) make a reasonable effort to verify facts relevant to the investment of assets of the retirement systems.

Section 9-4-420. (A) The board, acting through the chief investment officer, shall invest and reinvest the assets of the retirement systems as provided in Section 9-1-1310. The board may employ or retain administrators, agents, consultants, or other advisors it considers necessary with respect to making investments. The chief investment officer may use the services of the State Treasurer in making nonequity security investments as the chief investment officer determines appropriate.

(B) After receiving the proposed plan of the chief investment officer, the board shall adopt an annual investment plan, which must be implemented by the board through the chief investment officer. The board shall regularly review the plan implementation and make amendments as it considers appropriate. The plan must include the minimum and maximum portions of system assets that may be allocated to equity investments on an ongoing basis not to exceed seventy percent.

Section 9-4-430. In hiring and procurement in the implementation and administration of this chapter, and consistent with its duties as fiduciary under this title, the board shall strive to assure that minorities and minority-owned businesses are represented.

Section 9-4-440. (A) It is unlawful for a member, employee, or agent of the board or anyone acting on its behalf to use any information concerning board activities to obtain any economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated.

(B) If a member of the board, an employee of the board, or a member of his immediate family holds an economic interest in a blind trust, he is not considered to have violated the provisions of subsection (A) even if the acquisition of the economic interest by the blind trust would otherwise violate the provisions of subsection (A), if the existence of the blind trust and the manner of its control is disclosed to the State Ethics Commission and the board.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years and fined not more than one hundred thousand dollars.

(D) The provisions of this section are cumulative to, and not in lieu of, any other provisions of law applicable to the board and its members in the performance of official duties including, but not limited to, Chapter 13 of Title 8.



Section 9-4-450. (A) In addition to and not in lieu of the provisions of Section 9-4-440 and Chapter 13 of Title 8, and for the purposes of this article, there are the standards of conduct provided in subsection (B) of this section that apply for a fiduciary or employee of a fiduciary.

(B) A fiduciary or employee of a fiduciary shall:

(1) take no action to purchase or acquire services or property for the board or the retirement system where the fiduciary or employee of the fiduciary, their family, or their business associates have a financial interest in the services or property;

(2) take no action to invest retirement system funds in any share, or other security if the fiduciary or employee of the fiduciary, their family, or their business associates have an interest in, are underwriters of, or receive any fees from the investment;

(3) have no interest in the profits or receive any benefit from a contract entered into by the fiduciary;

(4) not use their positions to secure, solicit, or accept things of value, including gifts, travel, meals and lodging, and consulting fees for payment for outside employment, from parties doing or seeking to do business with or who are interested in matters before the fiduciary;

(5) not represent, while serving as or in the employment of the fiduciary and for one year after leaving the fiduciary, any person, in any fashion, before any public agency, with respect to any matters in which the fiduciary personally participated while serving as or employed by the fiduciary;

(6) not take any official action on matters that will result in a benefit to themselves, their family members, or their business associates;

(7) not, during or after their term of service, disclose or use confidential information acquired in their official capacity as fiduciary or employee of the fiduciary, without proper authorization;

(8) not use assets of the system for their own interests;

(9) not act on behalf of a party whose interests are adverse to the system or the fiduciary, even if the member receives no personal gain;

(10) not have any direct or indirect interest in the gains or profits of any system investment other than the indirect interest of a passive investor holding less than five percent of the outstanding equity in a publicly-traded security;

(11) not make investments through or purchases from, or otherwise do any business with a former fiduciary member or employee or with a business that is owned or controlled by a former fiduciary member or employee, for a period of three years after the fiduciary member or employee leaves the fiduciary.

The provisions of this subsection do not apply to an employee or affiliate of a fiduciary described in Section 9-4-310(4)(a) and (b) if the board elects specifically to waive this application by written contract with such a fiduciary. The board shall disclose any such waivers in its quarterly report.

(C) A breach of the standards provided in this section is grounds for the removal of a board member as a conflict of interest pursuant to the Governor's removal powers under Section 1-3-240(C), for the dismissal of an employee of the board, and in the case of a corporate fiduciary, at the board's option, voiding any contract with the fiduciary.

Section 9-4-460. The State shall defend the members of the board against a claim or suit that arises out of or by virtue of their performance of official duties on behalf of the board and must indemnify these members for a loss or judgment incurred by them as a result of the claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. The State shall defend officers and management employees of the board's investment division against a claim or suit that arises out of or by virtue of performance of official duties unless the officer, or management employee was acting in bad faith and must indemnify these officers, and management employees for a loss or judgment incurred by them as a result of such claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. This commitment to defend and indemnify extends to members, officers, and management employees after they have left their membership on or employment with the board, as applicable, if the claim or suit arises out of or by virtue of their performance of official duties on behalf of the board.

Section 9-4-470. Notwithstanding an employee's right to obtain educational and administrative services from independent companies or vendors, or both, that offer products in the state's retirement plans, the South Carolina Retirement Systems may provide unbiased investment education services including, but not limited to, instructional videos identifying plan types, plan provisions, and plan differences to any participant in any of the state's retirement plans."

B. This SECTION takes effect July 1, 2012.

Subpart 2

Conforming Amendments for the South Carolina Public Employee Benefit Trust

SECTION \_\_\_\_\_. Section 1-11-703(9) and (10) of the 1976 Code, as added by Act 195 of 2008, is amended to read:

“(9) ‘Board’ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Trust.

(10) ‘Employee insurance program’ or ‘EIP’ means the office of the ~~board~~ South Carolina Public Employee Benefit Trust designated by the board to operate insurance programs pursuant to this article.”

SECTION \_\_\_\_\_. Section 1-11-705(G)(2) of the 1976 Code, as added by Act 195 of 2008, is amended to read:

“(2) Effective beginning with the first fiscal year after the ratification of an amendment to Section 16, Article X of the Constitution of this State allowing funds in post-employment benefits trust funds to be invested in equity securities, the ~~Retirement System Investment Commission (RSIC) established pursuant to Chapter 16 of Title 9,~~ board shall invest and reinvest the funds of the SCRHI Trust Fund as assets of a retirement system are invested. The chief investment officer shall consult with the employee insurance program and the employee insurance program’s actuary to develop an annual investment plan for the SCRHI Trust Fund taking into account the cash flow needs of the employee insurance program with regard to payment of the employer share of premiums and claims for covered retirees. After the initial fiscal year the RSIC assumes this investing function, the annual investment plan for the SCRHI Trust Fund must be approved by the commission no later than June first of each year for the fiscal year beginning July first of the same calendar year.”

SECTION \_\_\_\_\_. Section 1-11-707(G)(2), as added by Act 195 of 2008, of the 1976 Code is amended to read:

“(2) Effective beginning with the first fiscal year after the ratification of an amendment to Section 16, Article X of the Constitution of this State allowing funds in post-employment benefits trust funds to be invested in equity securities, the ~~Retirement System Investment Commission (RSIC) established pursuant to Chapter 16 of Title 9;~~ board shall invest and reinvest the funds of the LTDI Trust Fund as assets of a retirement system are invested. The chief investment officer shall consult with the employee insurance program and the employee insurance program’s actuary to develop an annual investment plan for the LTDI Trust Fund taking into account the cash flow needs of the employee insurance program with regard to payment of the employer share of premiums and claims for covered retirees. After the initial fiscal year the RSIC assumes this investing function, the annual investment plan for the LTDI Trust Fund must be approved by the commission no later than June first of each year for the fiscal year beginning July first of the same calendar year.”

SECTION \_\_\_\_ . Section 1-11-710(A) of the 1976 Code, as last amended by Act 195 of 2008, before the first item, is amended to read:

“(A) The ~~State Budget and Control Board~~ board shall:”

SECTION \_\_\_\_ . Section 1-11-720(B) of the 1976 Code is amended to read:

“(B) To be eligible to participate in the state health and dental insurance plans, the entities listed in subsection (A) shall comply with the requirements established by the ~~State Budget and Control Board~~ board, and the benefits provided must be the same benefits provided to state and school district employees. These entities must agree to participate for a minimum of four years and the board may adjust the premiums during the coverage period based on experience. An entity which withdraws from participation may not subsequently rejoin during the first four years after the withdrawal date.”

SECTION \_\_\_\_ . Section 1-11-725 of the 1976 Code, as added by Act 195 of 2008, is amended to read:

“Section 1-11-725. The ~~State Budget and Control Board’s~~ board’s experience rating of all local disabilities and special needs providers pursuant to Section 1-11-720(A)(3) must be rated as a single group when rating all optional groups participating in the state employee health insurance program.”

SECTION \_\_\_\_ . Section 1-11-730(A)(2) of the 1976 Code, as last amended by Act 195 of 2008, is amended to read:

“(2) A member of the General Assembly who leaves office or retires with at least eight years’ credited service in the General Assembly Retirement System is eligible to participate in the state health and dental plans by paying the full premium as determined by the ~~State Budget and Control Board~~ board.”

SECTION \_\_\_\_ . Sections 1-11-740 and 1-11-750 of the 1976 Code are amended to read:

“Section 1-11-740. The Division of Insurance Services of the ~~State Budget and Control Board~~ board may develop an optional long-term care insurance program for active and retired members of the various state retirement systems depending on the availability of a qualified vendor. A program must require members to pay the full insurance premium.

Section 1-11-750. The ~~Budget and Control Board~~ board shall devise a method of withholding long-term care insurance premiums offered under Section 1-11-740 for retirees if sufficient enrollment is obtained to make the deductions feasible.”

SECTION \_\_\_\_ . Section 1-11-770(A) of the 1976 Code, before the first item, is amended to read:

“(A) Subject to appropriations, the General Assembly authorizes the ~~state Budget and Control Board~~ board to plan, develop, and implement a statewide South Carolina 211 Network, which must serve as the single point of coordination for information and referral for health and human services. The objectives for establishing the South Carolina 211 Network are to:”

SECTION \_\_\_\_ . Sections 8-23-20 and 8-23-30 of the 1976 Code, as last amended by Act 305 of 2008, are amended to read:

~~“Section 8-23-20. A Deferred Compensation Commission is established consisting of eight members including the director of the South Carolina Retirement System, chief investment officer of the State Retirement System Investment Commission, and the executive director of the State Employees’ Association, each of whom serve ex officio, and five other public employees to be appointed by the State Budget and Control Board, at least two of whom must be state employees and one must be a retired public employee. The appointed members shall serve for terms of three years and until their successors are appointed and qualify. The State Budget and Control Board shall designate the chairman.~~

The ~~commission~~ board of directors of the South Carolina Public Employee Benefit Trust shall establish such rules and regulations as it deems necessary to implement and administer the Deferred Compensation Program. The ~~commission~~ board shall make such administrative appointments and contracts as are necessary to carry out the purpose and intent of this chapter and in the administration of account assets. For purposes of administering this program an individual account shall be maintained in the name of each employee.

The ~~commission~~ board shall select, through competitive bidding and contracts, plans for purchase of fixed and variable annuities, savings, mutual funds, insurance and such other investments as the ~~commission~~ board may approve which are not in conflict with the State Constitution and with the advice and approval of the State Treasurer.

Costs of administration may be paid from the interest earnings of the funds accrued as a result of deposits or as an assessment against each account.

Section 8-23-30. The State or any political subdivision of the State, by contract, may agree with an employee to defer, a portion of his compensation in an amount as provided for in a plan approved by the ~~commission~~ board of directors of the South Carolina Public Employee Benefit Trust and subsequently with the consent of the employee may contract for purchase or otherwise procure fixed or variable annuities, savings, mutual funds, insurance, or such other investments as the ~~commission~~ board may approve for the purpose of carrying out the objectives of the program with the advice and approval of the State Treasurer. The investments shall be underwritten and offered in compliance with applicable federal

and state laws and regulations by persons who are authorized by the ~~commission~~ board in accordance with the provisions of this chapter.”

SECTION \_\_\_\_\_. Section 8-23-70 of the 1976 Code is amended to read:

“Section 8-23-70. The Deferred Compensation Program established pursuant to this chapter shall be in addition to retirement, pension or benefit systems established by the State, federal government or political subdivision and no deferral of income under the Deferred Compensation Program shall affect a reduction of any retirement, pension, social security or other benefit provided by law. Any sum deferred under the Deferred Compensation Program shall not be subject to taxation until distribution is actually made to the employee.

Nothing contained in this chapter shall be construed to prohibit counties, municipalities, school districts, and other political subdivisions of the State and their employees from participation in deferred compensation plans or programs offered independently of the ~~State Deferred Compensation Commission~~ board of directors of the South Carolina Public Employee Benefit Trust by building and loan or savings and loan associations, banks, trust companies and credit unions chartered by the state or federal governments, and all such political subdivisions shall be empowered with such contractual authority as may be necessary or incident to such participation; provided, however, that (a) such deferred compensation plans or programs shall comply with applicable federal income tax law in providing income deferral, (b) all deferred amounts shall be held in accounts, certificates of deposit or other forms of savings vehicles which are insured by the Federal Savings and Loan Insurance Corporation in the case of savings and loan associations, the Federal Deposit Insurance Corporation in the case of commercial banks, and the National Credit Union Administration in the case of credit unions.”

SECTION \_\_\_\_\_. Section 8-23-110 of the 1976 Code, as added by Act 387 of 2000, is amended to read:

“Section 8-23-110. (A) The ~~commission~~ board of directors of the South Carolina Public Employee Benefit Trust shall ensure that plan documents governing deferred compensation plans administered by the ~~commission~~ board permit employer contributions to the extent allowed under the Internal Revenue Code.

(B) Political subdivisions of the State, including school districts, participating in deferred compensation plans administered by the ~~commission~~ board or such plans offered by other providers may make matching or other contributions on behalf of their participating employees.

(C) As an additional benefit for state employees, and to the extent funds are appropriated for this purpose, the State shall make matching or other contributions on behalf of state employees participating in the deferred compensation plans offered by the ~~commission~~ board or such plans offered by other providers in an amount and under the terms and conditions prescribed for such contributions by the ~~State Budget and Control Board~~ board.”

SECTION \_\_\_\_\_. Section 9-1-10(6) of the 1976 Code is amended to read:

“(6) ‘Board’ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Trust which shall act under the provisions of this chapter through its Division of Retirement Systems.”

SECTION \_\_\_\_\_. Section 9-1-20 of the 1976 Code is amended to read:

“Section 9-1-20. A retirement system is hereby established and placed under the management of the ~~State Budget and Control Board~~ board for the purpose of providing retirement allowances and other benefits for teachers and employees of the State and political subdivisions or agencies or departments thereof. The System so created shall have the power and privileges of a corporation and shall be known as the South Carolina Retirement System, and by such name all of its business shall be transacted, all of its funds invested and all of its cash, securities and other property held.”

SECTION \_\_\_\_\_. Section 9-1-210 of the 1976 Code is amended to read:

“Section 9-1-210. The general administration and responsibility for the proper operation of the System and for making effective the provisions hereof are hereby vested in the ~~State Budget and Control Board~~ board.”

SECTION \_\_\_\_\_. Section 9-1-310 of the 1976 Code, as last amended by Act 155 of 2005, is amended to read:



“Section 9-1-310. The administrative cost of the South Carolina Retirement System, the South Carolina Police Officers Retirement System, the Retirement System for Members of the General Assembly of the State of South Carolina, the Retirement System for Judges and Solicitors of the State of South Carolina, and the National Guard Retirement System must be funded from the interest earnings of the above systems. The allocation of the administrative costs of the systems must be made by the ~~State Budget and Control Board~~ board and must be based upon a proration of the cost in proportion to the assets that each system bears to the total assets of all of the systems for the most recently completed fiscal year.”

SECTION \_\_\_\_ . Section 9-1-1310(A) and (C) of the 1976 Code, as last amended and as added, respectively, by Act 153 of 2005, is amended to read:

“(A)The board is the trustee of the retirement system as ‘retirement system’ is defined in Section ~~9-16-10(8)~~ 9-4-310(8). The ~~Retirement System Investment Commission~~ board shall invest and reinvest the funds of the retirement system as ‘retirement system’ is defined in Section ~~9-16-10(8)~~ 9-4-310(8), subject to all the terms, conditions, limitations, and restrictions imposed by Section 16, Article X of the South Carolina Constitution, subsection (B) of this section, and Chapter 16 of this title.

(C) The funds and assets of the various state retirement systems are not funds of the State, but are instead held in trust as provided in Section ~~9-16-20~~ 9-4-320.”

SECTION \_\_\_\_ . Section 9-1-1340 of the 1976 Code, as last amended by Act 264 of 2006, is amended to read:

“Section 9-1-1340. Except as otherwise provided in this chapter or in Chapters 8, 9, 10, and 11 of this title, no member of or person employed by the ~~Retirement System Investment Commission~~ board shall have any direct interest in the gains or profits of any investment made by the ~~commission~~ board. No ~~commission~~ board member or employee of the ~~commission~~ board shall, directly or indirectly, for himself or as an agent in any manner use the funds of the ~~commission~~

board except to make such current and necessary payments as are authorized by the board ~~or commission~~. Nor shall any member or employee of the ~~commission~~ board become an endorser or surety or in any manner an obligor for monies loaned or borrowed from the ~~commission~~ board.”

SECTION \_\_\_\_ . Section 9-1-1515(D)(2) of the 1976 Code is amended to read:

“(2) A member taking early retirement may maintain coverage under the State Insurance Benefits Plan until the date his coverage is reinstated pursuant to item (1) of this subsection by paying the total premium cost, including the employer’s contribution, in the manner provided by the Division of Insurance Services of the ~~State Budget and Control Board~~ board.”

SECTION \_\_\_\_ . Section 9-1-1830 of the 1976 Code, as last amended by 309 of 1986, is amended to read:

“Section 9-1-1830. Starting July 1, 1981, there must be paid to the System, and credited to the post-retirement increase special fund, contributions by the employers in an amount equal to two-tenths of one percent of the earnable compensation of each member employed by each employer. In addition, the ~~State Budget and Control Board~~ board shall, on the recommendation of the actuary, transfer a portion of the monies as are received pursuant to Section 9-1-1050 that are available due to actuarial gains in the System if the transfers do not adversely affect the funding status of the System. Starting July 1, 1986, all contributions previously credited to the post-retirement increase special fund must be diverted and credited to the employer annuity accumulation fund.”

SECTION \_\_\_\_ . Sections 9-2-20 and 9-2-30 of the 1976 Code are amended to read:

“Section 9-2-20. (a) The board shall consist of eight members appointed by the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Trust and must be constituted as follows:

- (1) one member representing municipal employees;
- (2) one member representing county employees;

(3) three members representing state employees, one of whom must be retired and one of whom must be an active or retired law enforcement officer who is contributing to or receiving benefits from the Police Officers Retirement System. If this law enforcement member is retired, the other two members representing state employees do not have to be retired;

(4) two members representing public school teachers, one of whom must be retired;

(5) one member representing the higher education teachers. The ~~Budget and Control Board~~ board of directors shall invite the appropriate associations, groups, and individuals to recommend persons to serve on the board.

(b) The terms of the members shall be for four years and until their successors have been appointed and qualify. No member shall serve more than two consecutive terms. After serving two consecutive terms a member shall be eligible to serve again four years after the expiration of his second term. Provided, that of those first appointed four of the members shall serve for a term of two years. In the event of a vacancy, a successor shall be appointed in the same manner as the original appointment to serve the unexpired term.

(c) A chairman, vice chairman and secretary shall be elected from among the membership to serve for terms of two years.

Section 9-2-30. The board shall meet once a year with the Director of the South Carolina Retirement System; once a year with the State Personnel Director; and once a year with the ~~State Budget and Control Board~~ the executive director of the South Carolina Public Employee Benefit Trust. The chairman may call additional meetings of the board at such other times as deemed necessary and shall give timely notice of such meetings.”

SECTION \_\_\_\_\_. Section 9-8-10(3) of the 1976 Code is amended to read:

“(3) ‘Board’ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Trust.”

SECTION \_\_\_\_\_. Section 9-8-30(1) of the 1976 Code is amended to read:

“(1) The administration and responsibility for the operation of the System and for making effective the provisions of this chapter are vested in the ~~State Budget and Control Board~~ board.”

SECTION \_\_\_\_\_. The last undesignated paragraph of Section 9-8-60(1) of the 1976 Code, as added by Act 164 of 1993, is amended to read:

“A person receiving retirement allowances under this system who is elected to the General Assembly continues to receive the retirement allowances while serving in the General Assembly and must also be a member of the General Assembly Retirement System unless the person files a statement with the ~~State Budget and Control Board~~ board on a form prescribed by the board electing not to participate in the General Assembly Retirement System while a member of the General Assembly. A person making this election shall not make contributions to the General Assembly Retirement System nor shall the State make contributions on the member’s behalf and the person is not entitled to benefits from the General Assembly Retirement System after ceasing to be a member of the General Assembly.”

SECTION \_\_\_\_\_. Section 9-9-10(3) of the 1976 Code is amended to read:

“(3) ‘Board’ shall mean the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Trust.”

SECTION \_\_\_\_\_. Section 9-9-30(1) of the 1976 Code is amended to read:

“(1) The general administration and responsibility for the proper operation of the System and for making effective the provisions hereof are hereby vested in the ~~State Budget and Control Board~~ board.”

SECTION \_\_\_\_\_. Section 9-10-10(1) of the 1976 Code, as added by Act 155 of 2006, is amended to read:

“(1) ‘Board’ or ‘board’ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Trust, acting pursuant to the provisions of this chapter through its Division of Retirement Systems.”

SECTION \_\_\_\_\_. Section 9-10-60(D) of the 1976 Code, as added by Act 155 of 2005, is amended to read:

“(D) The General Assembly annually shall appropriate sums sufficient to establish and maintain the National Guard Retirement System on a sound actuarial basis as determined by the ~~State Budget and Control Board~~ board.”

SECTION \_\_\_\_\_. Section 9-11-10(9) of the 1976 Code is amended to read:

“(9) ‘Board’ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Trust acting through its Division of Retirement Systems.”

SECTION \_\_\_\_\_. Section 9-11-30(1) of the 1976 Code is amended to read:

“(1) The general administration and responsibility for the proper operation of the System and for making effective the provisions hereof are hereby vested in the ~~State Budget and Control Board~~ board.”

SECTION \_\_\_\_\_. Section 9-11-75 of the 1976 Code, as added by Act 424 of 1988, is amended to read:

“The ~~State Budget and Control Board~~ board shall adjust the employer contribution paid by employers under the South Carolina Police Officers Retirement System in an amount sufficient to offset the actuarial cost of the provisions of Sections 9-11-60 and 9-11-70, not to exceed three percent of payroll. If the employer contribution adjustment provided in this section is insufficient to offset the actuarial cost of the provisions of Sections 9-11-60, 9-11-70, 9-11-210, and 9-11-300, the board shall adjust employee contributions of the members of the South Carolina Police Officers Retirement System in an amount sufficient to offset the additional actuarial cost. If the contribution rates as set pursuant to Sections 9-11-60, 9-11-70, 9-11-210, and 9-11-300 exceed the actuarial cost of the provisions of Sections 9-11-60, 9-11-70,

9-11-120, and 9-11-300, the board shall decrease the contribution rate for both employers and employees on a proportional basis.”

SECTION \_\_\_\_\_. Section 9-12-10(1) of the 1976 Code, as added by Act 311 of 2008, is amended to read:

“(1) ‘Board’ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Trust acting as trustee of the retirement systems and acting through its Division of Retirement Systems.”

SECTION \_\_\_\_\_. Section 9-18-10(3) of the 1976 Code, as added by Act 38 of 1995, is amended to read:

“(3) ‘Board’ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Trust.”

SECTION \_\_\_\_\_. Section 9-21-20(2) of the 1976 Code, as added by Act 12 of 2003, is amended to read:

“(2) ‘Board’ means the ~~State Budget and Control Board~~ board of directors of the South Carolina Public Employee Benefit Trust.”

SECTION \_\_\_\_\_. Section 59-1-470 of the 1976 Code is amended to read:

“Section 59-1-470. Funds appropriated by the General Assembly for a deferred compensation employer matching contribution must be distributed by the State Department of Education to school districts for the purpose of providing an employer matching contribution for eligible school district employees making contributions to deferred compensation plans offered by the South Carolina ~~Deferred Compensation Commission~~ Public Employee Benefit Trust or other approved and qualified plans of other providers. These funds must be distributed in a manner consistent with the provisions of Section 8-23-110. The employer matching contribution by the school district may not exceed three hundred

dollars for each eligible employee a year. Individuals eligible for the matching contribution must be classified as required in Section 9-20-20, the Optional Retirement Program for Teachers and School Administrators.”

SECTION \_\_\_\_\_. This subpart takes effect July 1, 2012.

### Subpart 3

#### Transfer and Dissolution

SECTION \_\_\_\_\_. Effective July 1, 2012, the Retirement System Investment Commission, the State Retirement Systems Investment Panel, and the Deferred Compensation Commission are abolished. All of the functions and duties of the Retirement System Investment Commission, the State Retirement Systems Investment Panel, and the Deferred Compensation Commission are devolved upon the board of directors of the South Carolina Public Employee Benefit Trust.

SECTION \_\_\_\_\_. All functions, powers, duties, responsibilities, and authority vested in the transferred portions of the Budget and Control Board, the Retirement System Investment Commission, and the Deferred Compensation Commission to the South Carolina Public Employee Benefit Trust prior to the effective date of this act that are not otherwise specifically accounted for in this act are devolved upon the South Carolina Public Employee Benefit Trust.

SECTION \_\_\_\_\_. (A) Where the provisions of this act transfers portions of the Budget and Control Board and the Retirement System Investment Commission to the South Carolina Public Employee Benefit Trust, the employees, authorized appropriations, and assets and liabilities of the transferred portions of the Budget and Control Board and the Retirement System Investment Commission are also transferred to and become part of the South Carolina Public Employee Benefit Trust. All classified or unclassified personnel employed by the transferred portions of the Budget and Control Board and the Retirement System Investment Commission on the effective date of this act, either by contract or by employment at will, shall become employees of the South Carolina Public Employee Benefit Trust, with the same

compensation, classification, and grade level, as applicable. The Budget and Control Board shall cause all necessary actions to be taken to accomplish this transfer in accordance with state laws and regulations.

(B) Regulations promulgated by the transferred portions of the Budget and Control Board and the Retirement System Investment Commission are continued and are considered to be promulgated by the South Carolina Public Employee Benefit Trust. Contracts entered into by the Budget and Control Board, the Retirement System Investment Commission, and the Deferred Compensation Commission are continued and are considered to be devolved upon the South Carolina Public Employee Benefit Trust.

(C) The Code Commissioner is directed to change or correct all references to the Employee Insurance Program, the Retirement Division, the Retirement System Investment Commission, and the Deferred Compensation Commission to reflect its transfer to the South Carolina Public Employee Benefit Trust. References to the name of the Employee Insurance Program, the Retirement Division, the Retirement System Investment Commission, and the Deferred Compensation Commission in the 1976 Code or other provisions of law are considered to be and must be construed to mean appropriate references.

SECTION \_\_\_\_\_. Effective July 1, 2012, Chapter 16, Title 9 of the 1976 Code is repealed.

#### Subpart 4

#### Effective Date of this Part

SECTION \_\_\_\_\_. Except where otherwise provided, this Part takes effect upon approval by the Governor. /

Renumber sections to conform.  
Amend title to conform.