

SENATE BILL 2406

By Southerland

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 34; Title 8, Chapter 35; Title 8, Chapter 36 and Title 8, Chapter 37, relative to the Tennessee consolidated retirement system.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-35-403, is amended by adding the following language as a new, appropriately designated subsection:

() Notwithstanding any provision of this section, part or any other law to the contrary, any employee who has five (5) or more years of creditable service in the optional retirement program as of January 1, 2011, shall have the option of transferring membership from the optional retirement program to the Tennessee consolidated retirement system under the following terms and conditions:

(1) The employee is employed in a position covered by the Tennessee consolidated retirement system and has not received from the employee's account or accounts in the optional retirement program a cash withdrawal or other distribution that resulted from service rendered to a Tennessee state-supported institution of higher education. This provision shall not be construed to apply to limited lump sum cash distributions made pursuant to § 8-35-404(d)(1);

(2) The election must be made on election forms prescribed by the Tennessee consolidated retirement system and filed with it and with the institution where the employee is employed by no later than December 31, 2011;

(3) Any such transfer shall include both past and prospective membership;

(4) The transfer shall be irrevocable;

(5) The employee must pay to the Tennessee consolidated retirement system the greater of:

(A) A sum equal to the employee's account balances in the optional retirement program that resulted from service rendered to a Tennessee state-supported institution of higher education; or

(B) A sum equal to twelve and sixty-five hundredths percent (12.65%) of the employee's earnable compensation during the period of the employee's membership in the optional retirement program, plus interest on the amount at the rate provided in § 8-37-214;

(6) Notwithstanding § 8-37-220, the payment required under this subsection shall be made in a lump sum to the Tennessee consolidated retirement system by no later than December 31, 2011, and may be funded in whole or in part from amounts transferred from the employee's accounts in the optional retirement program, from other eligible tax deferred retirement accounts or from other funds available to the employee. For the purposes of this subdivision (6), amounts transferred from a tax deferred retirement account shall have the same meaning as that given in § 8-37-214(g)(1). Any difference between the payment required under this subsection and the amount transferred from the optional retirement program or a tax deferred retirement account shall be paid to the Tennessee consolidated retirement system within sixty (60) days following the transfer, but in any event not later than December 31, 2011. Notwithstanding § 8-35-111 or any other law to the contrary, if the payment is not funded in whole or in part from amounts transferred from the optional retirement program, the employee shall be permitted to retain ownership of the amounts without violating § 8-35-111;

(7) The employee shall have no rights, benefits or privileges in the Tennessee consolidated retirement system until the full amount of the payment required under this subsection is received by the retirement system. In the event the employee fails to remit the full amount by the time specified in subdivision (6) of this subsection, the employee shall irrevocably lose the employee's right to transfer membership from the optional retirement program to the Tennessee consolidated retirement system under this chapter; and

(8) All payments made under this subsection shall be credited to the state accumulation fund pursuant to § 8-37-301 and not to the individual accounts of members in the members' fund.

SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.