

Bill as
Introduced

HB 1576-FN - AS INTRODUCED

2010 SESSION

10-2504
10/09

HOUSE BILL **1576-FN**

AN ACT relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.

SPONSORS: Rep. DeJoie, Merr 11; Rep. P. McMahon, Merr 3

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill requires the option for certain employees in the retirement system to join the retirement system be made at the time of initial hiring, election, or appointment. This bill also repeals a provision allowing certain retirement system members to receive an allowance while in active service.

Explanation: Matter added to current law appears in **bold italics**.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 1 Retirement System; Membership; Optional. Amend the introductory paragraph of RSA 100-
2 A:3, I(a) to read as follows:
3 I.(a) Any person who becomes an employee, teacher, permanent policeman, or permanent
4 fireman after the date of establishment, working in a position for an employer under this chapter as
5 determined by common law standards, shall become a member of the retirement system as a
6 condition of employment; except that membership shall be optional ***at the time of initial hiring,***
7 ***election, or appointment*** in the case of elected officials, officials appointed for fixed terms,
8 unclassified state employees, or those employees of the general court who are eligible for
9 membership in the retirement system. Elected officials and officials appointed for fixed terms shall,
10 however, be eligible for membership in the retirement system only under the following conditions:
11 2 Certain Persons in Active Service Receiving Retirement Allowance. Any retirement system
12 beneficiary who retired under the provisions of former RSA 100-A:3, I(c) prior to its repeal by 2002,
13 137:6 and who is both (a) currently receiving a retirement allowance, and (b) serving in the same
14 membership- optional position from which the beneficiary retired, shall choose, within 60 days after
15 the effective date of this act, either to be restored to service as required by RSA 100-A:7 or to
16 terminate from active service in order to continue receiving his or her retirement allowance.
17 3 Repeal. 2002, 137:7, relative to the application of the repeal of former RSA 100-A:3, I(c), is
18 repealed.
19 4 Effective Date. This act shall take effect 60 days after its passage.

LBAO
10-2504
12/07/09

HB 1576-FN - FISCAL NOTE

AN ACT relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.

FISCAL IMPACT:

The New Hampshire Retirement System states this bill will have no fiscal impact on state, county, and local revenue or expenditures.

METHODOLOGY:

The New Hampshire Retirement System states this bill requires employees whose retirement system membership is optional to make the decision on joining the system upon initial hire, election, or appointment only. The System states this bill also contains a provision specific to the beneficiaries who retired under the provisions of former RSA 100-A:3, I(c) and are still receiving both retirement benefits and a salary for performing the duties of the same membership-optional position from which he or she retired, while no longer making service contributions to the system. Of the 90 employees who originally retired under the repealed provision, the System states 26 beneficiaries are currently still receiving retirement benefits and drawing salaries in membership-optional positions, by definition as a beneficiary no longer contributing to the System. The System states the proposed legislation will require these 26 beneficiaries to choose between either a restoration to service with resumption in service contributions or termination from the state position with a continuation of retirement benefits. In estimating the fiscal impact of the bill, the System assumed all 26 employees would remain in their positions, so service contributions would resume. The System's actuary states this increase in covered payroll would lead to a very small decline in employer contribution rates (0.01 - 0.02 percentage points). However, these lower employer contribution rates would be applied against the higher covered payroll, so the total cost to employers would remain constant.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 1576-FN

BILL TITLE: relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.

DATE: January 20, 2010

LOB ROOM: 306 **Time Public Hearing Called to Order:** 1:15 pm

Time Adjourned: 2:20 pm

(please circle if present)

Committee Members: Reps. Irwin, Harding, Pilotte, P. McMahon, Jeudy, Schmidt, Beck, D. Sullivan, D. Petterson, Hoide-Quimby, Clurey, Hawkins, R. Day, Reagan, K. Gould, S. Scamman, McGuire, C. Pratt, D. Ryder and Vita

Bill Sponsors: Rep. DeJoie, Merr 11; Rep. P. McMahon, Merr 3

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

*Rep. DeJoie, prime sponsor, introduced bill.

- Intent – address unclassified and non-classified employees who work full time for the state while collecting a NHRS annuity
- Employees (classified) can not work full time and collect an annuity
- Unsure if this would affect group II people who have 40 years of service in group II and possibly would qualify for more than 100% of salary
- Currently 26 employees

Rep. McMahon, co-sponsor.

- Fairness and sustainability of the system are important
- I retired and receiving an annuity and becoming a state employee – he should choose one of the two: retire or full time employee
- State employees (group I) now pay 7%
- Question exists in re: e.g. substitute teachers, coaches, part time employees (if amendment is considered)

*Richard Mason, opposes bill.

- 13 yrs – became director of training and fire academy (unclassified). Prior had 20 yrs in group II. In 2000, at age 45, applied for pension. He could not do so because of need to declare at initial hiring.
- In 2001 – unclassified employees who qualified could start collecting annuity and keep their job. This was repealed in 2002.

David Lang, representing Professional Firefighters. Supports bill.

- Governors reach down in ranks and hire best persons who can help improve government
- Assumptions assume a 4% annual salary growth
- Communities that hire per diems are costing the state and employers because they no longer contribute
- Proposed DeJoie amendment could be a good thing

*Ass't Comm. Earl Sweeney, representing Dept. of Safety. Opposes bill.

- If appointed for term certain – 4-5 yrs – has option of participating for not contributing
- Opposed to Section 2 – applies to few individuals
- Legislature passed the law and then, individual would be forced to give back

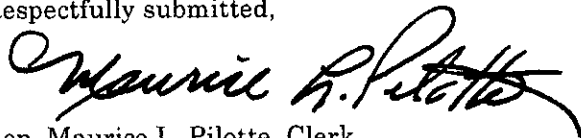
*David Barrett, retired chief and police and Director of Marine Patrol. Opposes bill.

- Beneficiary of section 2 in bill under repealed session law

Dick Ingram and Tim Crutchfield of NHRS were present, but did not testify.

To Retirement Sub-committee.

Respectfully submitted,



Rep. Maurice L. Pilotte, Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 1576-FN

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DATE: Jan. 20, 2010

LOB ROOM: 306 Time Public Hearing Called to Order: 1:15
Time Adjourned: 2:20

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Committee Members: Reps. Irwin, Harding, Pilotte, P. McMahon, Judy Schmidt, Beck, D. Sullivan, D. Petterson, Houde-Quimby, Flurey, Hawkins, R. Day, Reagan, K. Gould, S. Scamman, McGuire, C. Pratt, D. Ryder and Vita.

Bill Sponsors: Rep. DeJoie, Merr 11; Rep. P. McMahon, Merr 3

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

- * Rep DeJoie - introduced the bill.
- Intent - address unclassified and non-classified employees who work full-time for the state while collecting a NHRS annuity.
 - Employees (classified) cannot work full time and collect an annuity.
 - unsure if this would affect Group II people who have 40 yrs of service in Group II and possibly would qualify for more than 100% of Salary.
- Rep McMahon -
- Currently 26 employees - submitted a proposed amendment in re part-time employment.
 - Co-Sponsor -
 - Fairness and sustainability of the system are important.
 - If retired & receiving an annuity and becoming a state employee - he should choose one of the two retiree or full-time employee.

McMahon → Group I.
 - State employees now ~~under~~ pay 7% -
 - Question exists in re e.g. Substitute teachers, coaches, part-time employees (if amendment is considered.)

* Richard Mason - Opposed - Fire Academy
 13 yrs became director of Training - (unclassified)
 Prior had 20 yrs w/ Group II.
 In 2000 at age 45 applied for pension - could not do because of need to declare at initial hiring.
 In 2001 - unclassified employees w/ no qualified could not start collecting annuity & keep his job.
 In 2002 - repealed this provision -

David Pang - Lobbyist - Professional Fire Fighters
 - Governors reach down in ranks and hire best persons who can help improve government.
 - Assumptions assume a 4% annual salary growth -
 - Communities that hire per diems are costing the state & employers because they no longer contribute.
 - Proposed de jure amendment could be a good thing.

→ Carl Sweeney - Asst Commissioner DOS - Opposed.
 - If appointed for term certain (4 or 5 yrs) has option of participating or not contributing.
 - Opposed to Section 2 - applies to few individuals
 - Legislature passed the law and then, would be forced to ~~give~~ give back. individual

* David Barrett - Gilford
 - Retired Chief of Police - Director of Marine Patrol -
 - Beneficiary of Sect 2 in bill under repealed Session Law.

* Richard Sugrue + Tim Cutchfield
 Did not testify

Sub-Committee Actions

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SUBCOMMITTEE WORK SESSION ON HB 1576-FN

BILL TITLE: relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.

DATE: January 27, 2010

Subcommittee Members: Reps. Hawkins, Sullivan, and McMahon

Comments and Recommendations: How many are doing this (Double Dipping) Possible Interim Study - More Information Needed.

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.) INTERIM STUDY

Moved by Rep. Hawkins

Seconded by Rep. Sullivan

Vote: 3-0

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Ken Hawkins
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SUBCOMMITTEE WORK SESSION ON

BILL TITLE: *HB 1576*

DATE: *1/22/10*

Subcommittee Members: Reps. *Sullivan, Hawkins, McMahon*

Comments and Recommendations:

How many are doing this (Ohl Pipping) Possible Int Study

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.) *Int study*

Moved by Rep. *Hawkins*

Seconded by Rep. *Sullivan*

Vote: *3-0*

more information needed

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted/

Rep. *[Signature]*
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SUBCOMMITTEE WORK SESSION ON HB 1576-FN

BILL TITLE: relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.

DATE: October 6, 2010

Subcommittee Members: Reps. McMahon, Hawkins, Reagan, and D. Sullivan

Comments and Recommendations:

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep. McMahon

Seconded by Rep. Sullivan

Vote: 4-0

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Ricia McMahon
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SUBCOMMITTEE WORK SESSION ON HB 1576-FN

BILL TITLE: relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.

DATE: October 6, 2010

Subcommittee Members: Reps. McMahon, Hawkins, Reagan, and D. Sullivan

Comments and Recommendations:

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

4-0
Amendments

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep. Rep. McMahon

Seconded by Rep. Sullivan

Vote:

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Ricia McMahon
Subcommittee Chairman/Clerk

Eschen

The subcommittee assigned to address the retirement system as a whole and particularly the issues raised in HB 1576, met throughout the summer and has reached the following conclusions. It is detrimental to the New Hampshire Retirement System for the practice of "return to work" or "double dipping" to continue. We heard from The System that by allowing this practice to continue the overall health of The System is threatened. It is our understanding, that the actuarial calculations that project the necessary contributions to The System are based on a certain number of positions that will contribute into the NHRS. When those positions are not filled (or in the case of "double dipping," filled but contributions are not being paid because the employee is "part time") the actuarial calculation then becomes unsound and we run the risk of under funding The System.

We believe, from testimony we heard from various employee organizations, that this practice of "double dipping" is prevalent throughout municipalities and state agencies. However, The Retirement System cannot supply us with the number of positions that are held by people not paying into the system, because there is no requirement for employers to report part time employees to them.

To continue down the road of putting the New Hampshire Retirement System back on track the committee would make the following suggestions.

Three main changes to the statute 100-A:

1. Mandatory reporting from all employers of both part time and full time employees to the New Hampshire Retirement System.
2. After retirement, a six month break in service before a past employee may return to work in State or Municipal employment.
3. If an employee is part time they may not exceed 20 hours of work a week.

26 status -
- opt out -
* choice *

"eligible position"

"covered position"
criteria: full & part

18 weeks -
enrolled -

18 weeks -

or hours

refer
AFA.
criteria

chart = *

classified
non classified
unclassified

Sub-Committee Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SUBCOMMITTEE WORK SESSION ON HB 1576-FN

BILL TITLE: relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.

DATE: Jsnuary 26, 10

Subcommittee Members: Reps. Hawkins, Sullivan, and McMahon

Comments and Recommendations: Recess till 1/27/10.

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Ken Hawkins
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SUBCOMMITTEE WORK SESSION ON HB 1576-FN

BILL TITLE: relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.

DATE: 1/26/10

Subcommittee Members: Reps. *Hawkins, Sullivan, McMahon*

Comments and Recommendations:

Recess Till 1/27/10

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. *[Signature]*
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SUBCOMMITTEE WORK SESSION ON HB 1576-FN

BILL TITLE: relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.

DATE: September 22, 2010

Subcommittee Members: Reps. McMahon, Hawkins, Reagan, and D. Sullivan

Comments and Recommendations: Continue to October 6th.

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Ricia McMahon
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SUBCOMMITTEE WORK SESSION ON HB 1576-FN

BILL TITLE: relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.

DATE: September 22, 2010

Subcommittee Members: Reps. McMahon, Hawkins, Reagan, and D. Sullivan

Comments and Recommendations:

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,
Rep.
Subcommittee Chairman/Clerk

Contrib to

Oct 6

1 p2

National Public Pension Coalition

AFL-CIO American Federation of State, County and Municipal Employees American Federation of Teachers
Change to Win International Association of Fire Fighters National Conference on Public Employee Retirement
Systems National Education Association Service Employees International Union

Return to Work Enactments

Arizona

2009: Retirees may not receive their pension if they return to work in less than 12 months.

Connecticut

2006: Retired teachers may return to work in a position designated as a subject shortage area for that school year.

Florida

2009: Retirees must stay off the job for at least 6 months before returning to work in any public agency. Retirees are also prohibited from receiving both a pension check and a paycheck for one year.

Georgia

2008: Teachers who have been retired in excess of 12 months may return to work and still receive a retirement benefits.

Hawaii

2008: State and county governments may hire public employee retirees as long as they have a one-year waiting period before being rehired, prohibits re-employed agreements before retirement, requires employer to continue employer contributions to retirement system, and rehired employee must join any applicable collectively bargaining unit.

Indiana

2007: Retired teachers may be rehired; however, they must have reached the Rule of 90, are not participating in an early retirement program, and retired on or after the age of 62.

Illinois

2006: Teachers are allowed to return to work for 120 days or 600 hours without entering into active service.

2010: "Double dipping" is banned.

Indiana

2008: The salary exemption on rehiring state employees and teacher retirees is repealed which effectively allows retirees to be rehired without losing benefits. In addition, the waiting period is reduced before state employees and teachers can be rehired.

Kansas

2006: The salary limit on rehired retirees' salary increased from \$15,000 to \$20,000. No salary limit was placed if the retiree returns to work for a different KPERS employer than the one they retired from.

2006: Any KPERS employer who hired a KPERS retiree must pay the employer and employee contributions on behalf of the retiree. However, no payment is due if the KPERS retiree returns to work for the same KPERS employer they retired from.

2007: The \$20,000 salary earnings limitations for rehired retired licensed public school employees is eliminated.

Kentucky

National Public Pension Coalition

AFL-CIO American Federation of State, County and Municipal Employees American Federation of Teachers
Change to Win International Association of Fire Fighters National Conference on Public Employee Retirement
Systems National Education Association Service Employees International Union

2008: State, county and state police system members are required to have a 3 month break in service before returning to employment. Un-purchased, out-of-state, K-12 public school service count toward the thirty years required to return to work at 75% of last annual compensation. No employee can earn a second benefit. Teachers who return to work may have their retirement benefit waived and then have retirement benefits recalculated on the basis of the additional service.

Maryland

2007: Exemptions are expended for the law that provides that teachers who are rehired by a former employer endure a dollar-for-dollar benefit reduction if the sum of the retiree's annual compensation and initial retirement allowance exceed the retiree's compensation at the time of retirement. Retirees who return to low-performing schools and who teach in an area of critical shortage are exempt from those provisions under existing law. The number of teachers low-performing schools may rehire increases and broadens the definition of the work such teachers may undertake.

2008: Local school systems are required to reimburse the State Retirement and Pension System for the offset of pension benefits for retired teachers rehired by their former employers that result from late or non-reporting of reemployed retirees who are exempt from the offset.

2009: Retirees of the Employees' Retirement and Pension Systems who are reemployed as health care practitioners are allowed to be exempt from a specific reemployment earnings limitation. In addition, retirees of the State Police Retirement System who are reemployed as police employees at a rank of trooper first class are allowed to be exempt from a reemployment earnings offset.

Michigan

2010: "Double dipping" ban is placed.

Mississippi

2010: State agencies that rehire retired workers are required to contribute towards appropriate retirement plan, and extend the waiting period before rehiring.

Montana

2009: TRS retirees with 30 or more years of service may be reemployed as teachers, specialists, or administrators on a full time basis by a school district without the loss or interruption of their TRS benefits. The school district must demonstrate before hiring a retired teacher that they have been having severe difficulty in finding a qualified individual to fill the vacancy. The retired teacher is only allowed to be reemployed for up to 3 years. In addition, if a retired state employee returns to work in a full-time position covered by a state retirement system and becomes a contributing member, then their benefits must be suspended for the duration of the member's employment.

New Mexico

2010: "Double dipping" ban is placed. The grace period for which retirees must wait before returning to work is extended.

New York

2006: Beginning in 2007, retired state employees, county employees, police, and fire retirees may only receive \$30,000 in public employment without a reduction of retirement benefits. This is an increase from the previous \$27,500 salary cap.

North Carolina

National Public Pension Coalition

AFL-CIO American Federation of State, County and Municipal Employees American Federation of Teachers
Change to Win International Association of Fire Fighters National Conference on Public Employee Retirement
Systems National Education Association Service Employees International Union

2009: Retirees of the Teachers' and State Employees' Retirement System are allowed to return to work as nursing instructors without losing retirement benefits.

Oregon

2007: Nurses who have retired may return to work as full-time nursing instructors without loss of retirement benefits.

2009: Retirees who elected to receive a lump sum retirement payment and have been retired for at least 6 months may be rehired and not have to pay back the lump sum or installment amounts received.

South Dakota

2010: Three month waiting period before retirees may be rehired is enacted.

Utah

2010: Ban on double dipping is placed.

Virginia

2006: Those who retired from a state career other than a teacher are now allowed to teach in a critical shortage position while still receiving a retirement check. These individuals must become licensed by the Board of Education.

Washington

For TRS Plan 1 members and employers, prior re-employment agreements are prohibited and require documentation of need and of the hiring process. The bill increases the waiting period to one and a half months before a TRS Plan 1 retiree can return to work and it implements a lifetime limit of 1,900 hours. Any hours worked over 867 in a year while a TRS Plan 1 retiree is receiving a pension will be applied to the lifetime limit.

West Virginia

2009: A retiree can return to work and continue receiving a retirement check as long as the compensation they receive at work does not exceed \$15,000.

Wyoming

2007: Retirees now only have to wait 30 days (down from 6 months) to be rehired. The employer of the retiree shall pay the employee and employer retirement system contributions.

Source: Snell, Ronald K. "Pension and Retirement Plan Enactments". National Conference of State Legislatures.

<http://www.ncsl.org/Default.aspx?TabID=756&tabs=951,69,140#951> Snell, Ronald K. "State Pension and Retirement Legislation".

National Conference on Public Employee Retirement Systems.

http://www.ncpers.org/GovtAffairs/PageText/documents/NCPERSSelectedLegislation2_v4.pdf

<http://ncpers.org/News/PageText/documents/Leg2008July.pdf> Individual State legislature websites.

Testimony

①

Amend RSA 100-A:7 to read as follows (changes in bold):

*accidental
disability*

100-A:7 Restoration to Service. – If a disability beneficiary or any other beneficiary is restored to service, the beneficiary's retirement allowance shall cease, the beneficiary shall again become a member of the retirement system and the beneficiary shall contribute at the percentage payable pursuant to RSA 100-A:16, I(a). **Restored to service means working in a position that requires mandatory membership in the New Hampshire Retirement System for more than 10 or more hours per week for a cumulative minimum of 18 weeks per calendar year.** Anything herein to the contrary notwithstanding, any credit for membership service and for any prior service on the basis of which the beneficiary's creditable service was computed at the time of the beneficiary's former retirement shall be restored to full force and effect; upon subsequent retirement, the beneficiary shall receive a retirement allowance based on the beneficiary's combined creditable service and the member's average final compensation.

*Min Participation
less than
35 hours*

30205

Good afternoon Honorable Chair, Vice-Chair and members of the Executive Departments and Administration Committee, my name is Richard Mason of Portsmouth. For the past 13 years I have been the Director of Fire Training and Emergency Medical Services within the Department of Safety. For the 20 years prior to coming to state government I was an officer in three New Hampshire Fire Departments, Lebanon, Nashua and Portsmouth.

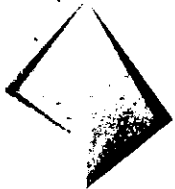
The Retirement law when I came to state government stated in RSA 100-A:3 that membership shall be optional for certain personnel...my status with the state has been one of those positions. Based on the law I filed for retirement benefits during the end of 2000 upon reaching the age of 45 and having 25 years of service in the Group II system. The law was not specific to state "at the time of initial hiring" as proposed in HB1576...if it had I would not have filed at that time and waited until my actual retirement date. However I was quickly told that I had to declare upon being appointed and was not allowed to receive retirement benefits at that time. I must say that the executive director and attorney at the retirement system thought the practice was less than adequate seeing the non-descript language in the law. They actually went to the retirement board at the time to see if I could in fact receive the benefits. I did keep in contact with the executive director regarding this issue.

A short time later I was contacted by my supervisor at the time who advised me that a legislator was amending a bill already in process to allow this benefit for those employees fitting the appropriate definition to in fact for a time specific would be allowed to file to receive benefits...I did take advantage of that at the time. In fact there were numerous news articles that related to this opportunity, with remarks from legislators and the retirement system stating it does not have a real impact due to lower retirement benefits and the state not having to pay retirement for and retaining employees.

This amendment was in Chapter Law 105 in 2001. In 2002 Chapter law 137 repealed the actions of Chapter 105 in 2001 effective July 1, 2003. This chapter in 2002 also states that "any member granted a retirement allowance under the provisions of RSA 100-A:3 (c) prior to repeal by section 6 of this act shall continue to receive his or her allowance." This section specifically tells me that the repeal was thought out and the legislators approving and sponsoring this bill did not wish to see this allowance taken away, as this year's bill spells out.

The fiscal note contained within this bill states no fiscal impact to the state or other government agencies, however at today's dollars and employer contribution level the state would have to pay almost \$70,000 in the next three years for my benefit alone.

I ask this committee to approve the corrected language so others do not fall into the same category that I did and please live up to the promise made in both Chapter 137:7 of 2002 and the legislative study committee who reviewed this allowing those receiving the allowance to continue to receive the allowance...thank you and I would be receptive to questions.



NHRS

New Hampshire Retirement System

September 25, 2009

The Honorable Patricia McMahon
The Honorable Kenneth Hawkins
New Hampshire House of Representatives
Executive Departments and Administration Committee
Legislative Office Building, Room 306
Concord, NH 03301

Re: SB108 re: conforming language re death benefits and re-marriage

Dear Representatives McMahon and Hawkins:

As you requested earlier this week, the sections of RSA 100 that include language regarding remarriage of a surviving spouse are:

- RSA 100 - A: 12 I & II -- regarding death after retirement
- 100-A:19, III and V -- regarding call firefighters
- RSA 100 - A: 52 I (d) and (g) -- regarding the medical subsidy for Group II
- RSA 100 - A: 52 - a I (f) and (h) -- regarding the medical subsidy for Group I
- RSA 100 - A: 52 - b I (f) and (h) -- regarding the medical subsidy for Group I

Should these changes be approved, the language of RSA 100 - A: 14, XIV should be updated to remove the reference to recovering payments made to remarried surviving spouses. I had previously noted that RSA 100 - A: 9 II should be included, but that changes was captured in last session's SB200.

The provisions of SB108 require that the New Hampshire Retirement System report the same to the chairs of the House and Senate Executive Departments and Administration Committees by November 1, 2009. I will provide that notice by a separate letter.

Let me know if you have any questions.

Sincerely,

Richard W. Ingram
Executive Director

allowance not to exceed \$1,250; provided he is found to be mentally or physically incapacitated for employment and that such incapacity is likely to be permanent. The fact of such fireman's permanent disability shall be established in a manner similar to that employed for determining the eligibility of a member for an accidental disability allowance under RSA 100-A:6.

III. If, upon the receipt by the board of trustees of proper proof of the death of a call, substitute, or volunteer fireman who was eligible for benefits under this section indicating that such death was the natural and proximate result of an injury received while in the actual performance of fire duty at some definite time and place, the board decides that death was the result of an accident in the performance of fire duty and was not caused by wilful negligence on the part of such fireman, an annual allowance equal to the allowance payable to the fireman on his becoming totally and permanently disabled, as set forth in paragraph II above, shall be payable to his widow, to continue during her widowhood; or if there is no widow, or if the widow dies ~~or remarries~~ before the youngest child of the deceased fireman has attained age 18, then to his child or children under such age, divided in such manner as the board in its discretion shall determine, to continue as a joint and survivorship allowance for the benefit of such child or children under said age until every child dies or attains said age; or if there is no widow or child under age 18 living at the death of the fireman, then to his dependent father or dependent mother as the board shall determine, to continue for life; provided that if none of the aforementioned beneficiaries is living at the death of the fireman no benefit shall be payable under the provisions of this paragraph.

IV. For purposes of this section, firemen shall be acknowledged as performing their fire duties when they are going to, returning from, or working at a fire or other public emergency; when performing all work within the scope of employment of the fireman under the expressed or implied authority of a superior officer; and in such other cases as the board may from time to time decide to be for the public interest.

V. In the case of a call, substitute or volunteer fireman in receipt of an allowance under paragraph II above as the result of a disability received in line of fire duty, who dies while in receipt of such allowance as the result of such injury received in the performance of fire duty, the payment of such allowance shall continue to his widow until she dies ~~or remarries~~, or to his child or children until each reaches the age of 18 years.

HISTORY

Source. 1967, 134:1. 2000, 246:3, eff. July 1, 2000. 2006, 120:13, eff. July 14, 2006.

Amendments—2006. Paragraph II: Deleted ", and, after the commencement of such allowance, said fireman shall be subject to the provisions of RSA 100-A:6, III, as if the same were

part of this section" following "100-A:6" in the second sentence.

—2000. Paragraph I: Substituted "executive director" for "secretary" in the third sentence, and modified the paragraph to make it gender neutral.

Supplemental allowance

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Officers and Public Em

Westlaw Topic

Westlaw Topic No. 233

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State of New Hampshire

Department of Safety

33 Hazen Drive

Concord, NH 03301

John J. Barthelmes

Commissioner

Earl M. Sweeney

Assistant Commissioner

January 25, 2010

Honorable Anne-Marie Irwin, Chair, and Members

House Executive Departments and Administration Committee

Legislative Office Building

Concord, New Hampshire 03301

Re: HB 1576, Active Service Beneficiaries Receiving Retirement Allowances

Dear Madam Chair and Members:

The above bill as worded nullifies a provision that has allowed certain persons to receive a retirement allowance while in active service in unclassified and nonclassified positions with the State. It affects 2 people I am aware of at the Department of Safety – Richard Mason, the Director of the Division of Fire Standards and Training and Emergency Medical Services, and David Barrett, the Director of the Division of Safety Services. However, when the prime sponsor testified at the hearing as to what he intended the bill to do (not as it is currently drafted) it would affect a number of other people at our Department, including me.

It has been the law for years that persons who are elected to office for fixed terms, and appointed officials who are appointed for fixed terms or to serve at the pleasure of the appointing authority have the option of not belonging to the Retirement System and not making contributions to the System. Typically they elect not to belong to the system because they do not expect to remain beyond their terms, or they are already retired from the System and because of these jobs serve at the whim of politics, or because the job would require them to change from Group I to Group II or vice-versa, it does not make sense for them to re-enter the system.

Section 1 of the bill clarifies that upon accepting such a job, the individual must make the decision at the time of their initial appointment or election whether to be in the Retirement System. This does not seem to work a hardship on anyone because this is pretty much how the system works at present. Section 2 of the bill applies to a very small number of people who took advantage of a session law passed by the Legislature several years ago (Chapter 105:3, laws of 2001) that allowed persons who were serving as

State officials (either unclassified or nonclassified) and who had served long enough in the System to have earned an ordinary retirement, to withdraw from membership in the Retirement System and collect a monthly retirement allowance while working in the appointed position. They would no longer contribute to the system, their retirement allowance would be fixed (with the exception of any future COLAs) as of the time they made that choice, and they could not enhance their future benefits by staying longer in the job. That bill was repealed the following year (Chapter 137:7, laws of 2002), after 90 unclassified and nonclassified employees took advantage of it. Now, 9 years later, the Fiscal Note indicates there are only 26 persons remaining in State service collecting retirement allowances and working in those positions. If this bill passes, those 26 persons would have to either quit their positions or re-enter the Retirement System.

We are aware of two of those individuals, as noted, who are employed at the Department of Safety as Division Directors, serving fixed terms. If this bill was intended to save the State or the Retirement System money, the opposite might occur. We ran the figures on one of these employees and concluded that if he re-entered the system and served for another 3 years the State would pay an additional \$70,000 into the system, he would contribute another \$26,000 and would enhance his retirement benefit by \$16,000 a year, so the net result if he lived to his actuarial life expectancy would be a combined net loss to the State and the Retirement System of more than \$100,000.

The legislation that allowed these people to retire and remain working is similar to the "drop program" in some other states and was sponsored by the late Representative Merton Dyer of Peterborough, a longtime member of the Legislature and of the Retirement Board. In looking back at press accounts at the time, among the persons quoted as supporting the bill was Representative Neal Kurk who said it would allow the State to retain experienced people in key positions.

The persons who would be affected by this bill should not be blamed for taking advantage of a law that the Legislature passed with full knowledge of what it was doing. Most of the 26 individuals who took the option had nothing to do with the original passage of the bill. Should they be penalized for doing something the Legislature made perfectly legal? This would be akin to penalizing someone who purchased a hybrid automobile to take advantage of the income tax deduction and 9 years later, coming forward to charge them for the avoided taxes, as though they had done something wrong by taking advantage of what was a legal deduction at the time. This retirement loophole, if indeed it was such, has long since been repealed, and individuals should not be retroactively punished for doing something the law was specifically passed to allow.

The above comments address the bill as currently worded. However, the prime sponsor testified that his intent was that nobody be allowed to work in a State unclassified or nonclassified position while simultaneously collecting a retirement allowance. If the bill was amended to accomplish that, it would affect a much larger number than 26 individuals. For example, the Commissioner and Assistant Commissioner of Safety, our Chief of Policy and Planning, and the Directors of the Divisions of State Police, Fire Safety, Emergency Communications, and Homeland Security and Emergency Management would have to vacate their positions before the end of their terms, as all are retired employees who later on came to work for the State in politically appointed positions.

I would emphasize that unlike the first group, these other individuals did not return to work in the same positions they vacated. They took entirely different jobs. This is no different than someone retiring as a police officer or firefighter and going to work driving a truck, or taking a Police Chief of Fire Chief's job in another state. In my case, I had been the Chief of Police in the town of Belmont. I had been a police officer more than 20 years and was more than age 45. When I announced my intent to leave that job, I was called and offered a position with the Department of Safety as Assistant to the Director of Motor Vehicles. I went to see a counselor at the Retirement System for advice. She said that since I was taking a job of a finite duration that would require political reappointment at the end of the term, and the new job was not in the Group II system and my service had all been in Group II (the law at that time did not allow as it does not for people to move between groups and receive a "blended" retirement) that my safest bet was to retire from the Town of Belmont and begin collecting my annuity. Never did I dream that a succession of Governors from both political parties would appoint me to several different appointed positions of increasing responsibility over a period of years.

The salaries of appointed officials are set by the Legislature. The Hay study several years ago found that all current unclassified positions are significantly undercompensated relative to comparable jobs in local government, other states, or the private sector, and they recommended that the salary scales be revised. However, this did not happen and realistically there is no way that it will happen in the current economic climate. Most of the appointed positions that I have held over the years have paid less than comparable jobs in local government or the private sector but I stayed in them because I was able to supplement them with my retirement annuity. When I finally leave State service my pension will remain as it is today, based on the pay I was earning in the Town of Belmont years ago. This is the case with most of our Division Directors who the State would have been unable to recruit for those appointments but for the fact they were retired from other positions.

As an example, the appointed term Colonel Booth, the current Director of State Police, expires on March 31 of this year and he has notified us that he is not interested in remaining with the State. When he took the job 4 years ago, he retired after about 30 years of service. He was Executive Major at the time. The Director of State Police, whose salary is set by the Legislature, earns less than the Executive Major and the Major, the two highest subordinate ranks in the State Police, who belong to the union and whose salaries are set by collective bargaining. When you consider regular overtime (which the Colonel being an unclassified employee is not entitled to) he makes less than some of his Captains and Lieutenants, and some Troopers and Sergeants who are entitled to work paid traffic details also make more annual pay than the Colonel.

The Commissioner is currently reviewing candidates with sufficiently broad uniformed patrol, detective, and administrative experience from inside and outside the ranks of the State Police to recommend to the Governor for appointment for a 4-year term as the next Colonel. An individual with this range of experience will have at least 20 years of service and be at least age 45, which would mean under present law they could retire and take the new job. It is doubtful if any current ranking officer in the State Police would be interested in the appointment unless they could retire because otherwise as Colonel they would be earning less money than they are paid in their present positions. Likewise the Chiefs of Police of our largest communities all earn more than the Colonel and would not likely be interested unless they could retire.

Commissioner Barthelmes was retired from the State Police and working in a federal job for the High Intensity Drug Trafficking Area in Massachusetts when he was recruited to return as Commissioner for a 4-year term. If he had to suspend his retirement allowance in order to accept the position it would have been too great a financial sacrifice. The Director of Parks and Recreation in one of our largest cities is paid more than the Commissioner of Safety. Our Chief of Policy and Planning, Kevin O'Brien, retired from the State Police several years ago at the rank of Major and was working for a major insurance company. We were fortunate to recruit him for the position of Chief of Policy and Planning, which serves at the pleasure of whoever is the Commissioner at the time. He could not have taken the risk but for the fact that he can keep his retirement allowance. Director Christopher Pope of our Division of Homeland Security and Emergency Management was the Fire Chief in the City of Concord when we recruited him for this job, which serves at the pleasure of the Governor. He retired from the City of Concord when he took this job. As someone who still has children in college, we would not have taken this position at the salary it pays but for the "safety net" of being able to keep his retirement allowance while working for us. The same holds true for the Director of Emergency Communications, who is a retired local Police Chief.

There are a few other agencies that rely on experienced retired persons with the proper backgrounds to fill unclassified and nonclassified positions. Examples are the Police Standards and Training Council where the Director is a retired city Police Chief appointed for a term, the Commissioner of Corrections is a retired Police Chief, and the investigators at the Attorney General's Office are typically retired local Detectives appointed for terms.

If you consider the total number of persons who retired from either Group I or Group II and accepted unclassified or nonclassified political appointments and the 10 elected County Sheriffs, most of whom are retired police officers and compare it to the 10,000 or so classified State employees or the thousands more local and county employees this would probably amount to about .001% of the total contributing members of the Retirement System and I believe the fiscal impact on the system is statistically insignificant. If the State had to adjust the unclassified salary scale in order to attract experienced persons to these positions, the fiscal impact to the State would be huge. For the above reasons, we believe HB 1576-FN should be found inexpedient to legislate.

An area that might be looked at would be some municipal situations where department heads have retired from a fulltime position and returned to the exact same position at a slightly reduced workweek and are no longer contributing to the system. Depending on how widespread this phenomenon is, it might be worthwhile to consider at some point prohibiting this from happening prospectively but grandfathering the few persons that currently hold such positions, so as not to have an adverse impact on those individuals or the communities that they serve.

Thank you for taking the time to read this rather lengthy explanation.

Very truly yours,

Earl M. Sweeney

Earl M. Sweeney



HOUSE COMMITTEE RESEARCH OFFICE
New Hampshire House of Representatives
4th Floor, Legislative Office Building
Concord, NH 03301
Tel: (603) 271-3600
Fax: (603) 271-6689

Pam Smarling, Committee Researcher
(603) 271-3387; *Pam.Smarling@leg.state.nh.us*

To: Rep. Ricia McMahon, ED&S Retirement Subcommittee Chairman

From: Pam Smarling, Committee Researcher
House Committee Research

Date: January 27, 2010

RE: HB 1576, relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.
Background on Certain Employees Receiving a Retirement Benefit While Working; Text of 2001 and 2002 Legislation

Effect of HB 1576

Under sections 2 and 3 of HB 1576:

- Unclassified and nonclassified employees who retired under former RSA 100-A:3, I(c) who are receiving a retirement allowance and still working in the same position from which they 'retired' are required to choose either to be restored to service or terminate from active service
- Repeals the 2002 law that permitted unclassified and nonclassified employees who retired under RSA 100-A:3, I(c) to continue to collect their retirement allowance after the repeal of this provision on July 1, 2003.

Adopted in 2001; HB 123, (Chapter 105, Laws of 2001)

105:1 New Section; Director of Safety Services; Retirement System. Amend RSA 21-P by inserting after section 10 the following new section:

21-P:10-a Director of Safety Services; Retirement System. For purposes of classification under the provisions of RSA 100-A, the director of safety services shall be considered a permanent policeman if the director was a permanent police member

of group II for at least 10 years prior to appointment as director of safety services and continues to be certified as a police officer.

105:2 New Subparagraph; Unclassified and Non-classified State Employees Restored to Service. Amend RSA 100-A:3, I by inserting after subparagraph (b) the following new subparagraph:

(c) Notwithstanding the provisions of RSA 100-A:7, any member who is an unclassified or non-classified state employee eligible for retirement, may elect to withdraw from membership and apply to receive an allowance under RSA 100-A:5. Upon such election, the relative to certain retirement system beneficiaries receiving a retirement allowance while in active service. member shall be deemed to have terminated employment and withdrawn from membership with a retirement allowance and shall not be subject to service provisions of RSA 100-A:7.

105:3 Effective Date. This act shall take effect upon its passage.

(Approved: June 26, 2001)

(Effective Date: June 26, 2001)

Adopted in 2002; HB 1469 (Chapter 137, Laws of 2002)

- Established a study committee
- Repealed RSA 100-A:3, I(c) effective July 1, 2003
- Placed a moratorium on new employees becoming eligible to retire under RSA 100-A:3, I(c) after May 9, 2002.

137:1 Committee Established. There is established a committee to study the eligibility of state employees to receive a retirement system benefit while in service.

137:2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Three members of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

137:3 Duties. The committee shall study the benefits and concerns of allowing unclassified, nonclassified, and classified state employees, or other retirement system members, to elect to receive a retirement system allowance while remaining in service.

137:4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within

45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

137:5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2002.

137:6 Repeal; 2003. RSA 100-A:3, I(c), relative to retirement allowance granted to members while in service, is repealed.

137:7 Application. Any member granted a retirement allowance under the provisions of RSA 100-A:3, I(c) prior to repeal by section 6 of this act shall continue to receive his or her allowance.

137:8 Moratorium. The provisions of RSA 100-A:3, I(c), allowing retirement allowances to be granted to members while in service, shall not apply to retirement system members who first become eligible to elect to receive a retirement allowance under such statutory provision after the effective date of this section.

137:9 Effective Date.

- I. Sections 6 and 7 of this act shall take effect July 1, 2003.
- II. The remainder of this act shall take effect upon its passage.

(Approved: May 9, 2002)

(Effective Date:

- I. Sections 6 and 7 of this act shall take effect July 1, 2003.
- II. The remainder of this act shall take effect May 9, 2002)

100-A:7 Restoration to Service. – If a disability beneficiary or any other beneficiary is restored to service, the beneficiary's retirement allowance shall cease, the beneficiary shall again become a member of the retirement system and the beneficiary shall contribute at the percentage payable pursuant to RSA 100-A:16, I(a). Anything herein to the contrary notwithstanding, any credit for membership service and for any prior service on the basis of which the beneficiary's creditable service was computed at the time of the beneficiary's former retirement shall be restored to full force and effect; upon subsequent retirement, the beneficiary shall receive a retirement allowance based on the beneficiary's combined creditable service and the member's average final compensation.

If I can provide further information on this, please let me know.



State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

MEMORANDUM

DATE: November 1, 2002

TO: Honorable C. Jeanne Shaheen, Governor
Honorable Gene Chandler, Speaker of the House
Honorable Arthur P. Klemm, Jr., President of the Senate
Honorable Karen O. Wadsworth, House Clerk
Honorable Tammy L. Wright, Assistant Senate Clerk
Michael York, State Librarian

FROM: Rep. Merton Dyer, Chairman
Post Office Box 3, West Peterborough NH 03468-0003
(603) 924-3928

SUBJECT: Final Report on ~~HB 1469~~, establishing a committee to study the eligibility of State employees to receive a retirement system benefit while in service, establishing a moratorium on eligibility for electing such benefit, and prospectively repealing the provision allowing certain State employees to receive a retirement allowance while in service.

Pursuant to Chapter ~~1374~~ Laws of 2002, enclosed please find the Final Report of the committee charged with studying HB 1469, establishing a committee to study the eligibility of state employees to receive a retirement system benefit while in service, establishing a moratorium on eligibility for electing such benefit, and prospectively repealing the provision allowing certain state employees to receive a retirement allowance while in service.

If you have any questions or comments regarding this report, please do not hesitate to contact me.

MSD:co

cc: Study Committee Members
Pam Smarling, Committee Researcher

**Final Report of the Committee to Study the Eligibility of State Employees to Receive
A Retirement System Benefit While in Service**

(HB 1469; Chapter 137, Laws of 2002)

November 1, 2002

Membership:

Rep. Merton S. Dyer
Rep. Carl G. Robertson
Rep. Donald R. Lent

Sen. Lou D'Allesandro
Sen. Carl R. Johnson
Sen. Gary R. Francoeur

The committee met on August 13, October 17 and October 29, 2002.

Rep. Merton S. Dyer was elected as Chairman of the committee.

In the course of their meetings, the committee reviewed and discussed the history of RSA 100-A:3, I(c). HB 123 was introduced in the 2001 legislative session to allow one unclassified employee to retain his status as a member of Group II of the New Hampshire Retirement System (NHRS) although he did not fit the definition of a Group II member. HB 123, was amended in the Senate to allow any unclassified or non-classified employee who is eligible for retirement to withdraw from membership and collect a retirement annuity while continuing to work for the state. An employee who elected to exercise his rights under this new law would continue to work for the state, collect his salary plus a retirement annuity and would discontinue contributions towards his retirement. The annuity amount would be calculated using the years of service and average final compensation attained at the time that he or she elected to 'retire' under this provision. Any additional years of service or higher salary amounts would not be calculated into a revised retirement benefit. The benefit would be 'frozen' for this employee.

The House concurred with the Senate changes to HB 123, late in the 2001 session. The bill became Chapter 105, Laws of 2001. The new statute, RSA 100-A:3, I(c), became effective on June 26, 2001.

In the following months, questions arose concerning the adoption of this new law. Some people expressed the opinion that the ability to receive a retirement annuity in addition to a high level commissioner's salary was a boon for management level employees. They considered it unfair that such an option was not available to classified state employees. Rep. Henry Mock sponsored HB 1469 in the 2002 legislative session. As originally introduced, HB 1469 would have amended RSA 100-A:3, I(c), to allow

employees to withdraw from the NHRS and collect benefits while continuing to work for the state for a maximum of three years only. This bill would have applied to all classified, unclassified and non-classified state employees.

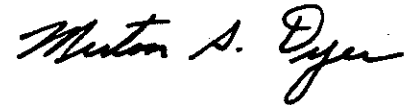
The House Executive Departments and Administration Committee offered a floor amendment to HB 1469, which was adopted by the full House in March 2002. Under this amendment:

1. RSA 100-A:3, I(c) was repealed effective July 1, 2003
2. a moratorium on the application of RSA 100-A:3, I(c) to members who became eligible to retire under the law after the effective date of the bill was established; and
3. a committee to study the issues raised by RSA 100-A:3, I(c) was established

This committee was specifically charged with studying "the benefits and concerns of allowing unclassified, non-classified and classified state employees, or other retirement system members, to elect to receive a retirement system allowance while remaining in service." In reviewing this issue, staff of NHRS reported that a total of 231 unclassified and non-classified employees were eligible to receive an annuity and continue working under RSA 100-A:3, I(c). As of October 28, 2002, a total of 52 employees had applied to receive an annuity under this section. Committee members noted that under the language of the moratorium, the remaining 179 eligible employees still could apply for the annuity if they do so prior to July 1, 2003.

After lengthy discussions, the members of the committee determined that the repeal of RSA 100-A:3, I(c) should be allowed to take effect as scheduled under Chapter 137, Laws of 2002. Committee members recommended no further legislation at this time. This will effectively terminate the ability to elect this option to all employees. The employees that did avail themselves of this opportunity will continue to receive their retirement annuity in the amount calculated at the time that their participation in the system was terminated.

Respectfully submitted,



Rep. Merton S. Dyer, Chairman

CHAPTER 105

HB 123-FN - FINAL VERSION

6

5/1/01 0974s

6/5/01 1405s

2001 SESSION

01-0341 10/09

HOUSE BILL ***123-FN***

AN ACT relative to the retirement system classification for the director of the division of safety services, department of safety and relative to retirement allowances for certain state employees.

SPONSORS: Rep. Dyer, Hills 8; Rep. Welch, Rock. 18; Rep. Royce, Ches 9; Sen. Johnson, Dist 3

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill allows the director of safety services, if certified as a police officer, to maintain group II membership in the New Hampshire retirement system.

This bill allows an unclassified or non-classified employee, who retires and subsequently returns to service, to elect to receive a retirement allowance, rather than become a member of the retirement system.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

5/1/01 0974s

6/5/01 1405s

01-0341

10/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand One

AN ACT relative to the retirement system classification for the director of the division of safety services, department of safety and relative to retirement allowances for certain state employees.

Be it Enacted by the Senate and House of Representatives in General Court convened:

105:1 New Section; Director of Safety Services; Retirement System. Amend RSA 21-P by inserting after section 10 the following new section:

21-P:10-a Director of Safety Services; Retirement System. For purposes of classification under the provisions of RSA 100-A, the director of safety services shall be considered a permanent policeman if the director was a permanent police member of group II for at least 10 years

<http://www.gencourt.state.nh.us/legislation/2001/HB0123.html>

1/19/2010

prior to appointment as director of safety services and continues to be certified as a police officer.

105:2 New Subparagraph; Unclassified and Non-classified State Employees Restored to Service. Amend RSA 100-A:3, I by inserting after subparagraph (b) the following new subparagraph:

(c) Notwithstanding the provisions of RSA 100-A:7, any member who is an unclassified or non-classified state employee eligible for retirement, may elect to withdraw from membership and apply to receive an allowance under RSA 100-A:5. Upon such election, the member shall be deemed to have terminated employment and withdrawn from membership with a retirement allowance and shall not be subject to service provisions of RSA 100-A:7.

105:3 Effective Date. This act shall take effect upon its passage.

(Approved: June 26, 2001)

(Effective Date: June 26, 2001)

CHAPTER 137

HB 1469-FN - FINAL VERSION

21mar02...3048h

2002 SESSION

02-2445

10/09

HOUSE BILL ***1469-FN***

AN ACT establishing a committee to study the eligibility of state employees to receive a retirement system benefit while in service, establishing a moratorium on eligibility for electing such benefit, and prospectively repealing the provision allowing certain state employees to receive a retirement allowance while in service.

SPONSORS: Rep. Mock, Carr 3; Rep. Chandler, Carr 1; Rep. Burling, Sull 1; Rep. Kurk, Hills 5; Rep. Wall, Straf 9; Sen. Johnson, Dist 3

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill establishes a committee to study the eligibility of state employees to receive a retirement system benefit while in service. The bill also establishes a moratorium on eligibility for unclassified and nonclassified employees to elect to receive such a retirement allowance, and repeals in 2003 the provision allowing certain state employees to receive a retirement allowance while in service.

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

21mar02...3048h

02-2445

10/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Two

AN ACT establishing a committee to study the eligibility of state employees to receive a retirement system benefit while in service, establishing a moratorium on eligibility for electing such benefit, and prospectively repealing the provision allowing certain state employees to receive a retirement allowance while in service.

Be it Enacted by the Senate and House of Representatives in General Court convened:

137:1 Committee Established. There is established a committee to study the eligibility of state employees to receive a retirement system benefit while in service.

137:2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Three members of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

137:3 Duties. The committee shall study the benefits and concerns of allowing unclassified, nonclassified, and classified state employees, or other retirement system members, to elect to receive a retirement system allowance while remaining in service.

137:4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

137:5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2002.

137:6 Repeal; 2003. RSA 100-A:3, I(c), relative to retirement allowance granted to members while in service, is repealed.

137:7 Application. Any member granted a retirement allowance under the provisions of RSA 100-A:3, I(c) prior to repeal by section 6 of this act shall continue to receive his or her allowance.

137:8 Moratorium. The provisions of RSA 100-A:3, I(c), allowing retirement allowances to be granted to members while in service, shall not apply to retirement system members who first become eligible to elect to receive a retirement allowance under such statutory provision after the effective date of this section.

137:9 Effective Date.

I. Sections 6 and 7 of this act shall take effect July 1, 2003.

II. The remainder of this act shall take effect upon its passage.

(Approved: May 9, 2002)

(Effective Date: I. Sections 6 and 7 of this act shall take effect July 1, 2003.

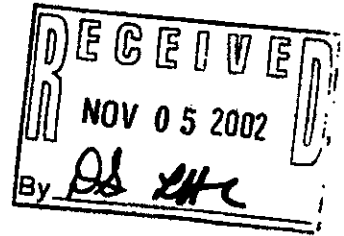
II. The remainder of this act shall take effect May 9, 2002)



State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD



MEMORANDUM

DATE: November 1, 2002

TO: Honorable C. Jeanne Shaheen, Governor
Honorable Gene Chandler, Speaker of the House
Honorable Arthur P. Klemm, Jr., President of the Senate
Honorable Karen O. Wadsworth, House Clerk
Honorable Tammy L. Wright, Assistant Senate Clerk
Michael York, State Librarian

FROM: Rep. Merton Dyer, Chairman
Post Office Box 3, West Peterborough NH 03468-0003
(603) 924-3928

SUBJECT: Final Report on HB 1469, establishing a committee to study the eligibility of State employees to receive a retirement system benefit while in service, establishing a moratorium on eligibility for electing such benefit, and prospectively repealing the provision allowing certain State employees to receive a retirement allowance while in service.

Pursuant to Chapter 137:1, Laws of 2002, enclosed please find the Final Report of the committee charged with studying HB 1469, establishing a committee to study the eligibility of state employees to receive a retirement system benefit while in service, establishing a moratorium on eligibility for electing such benefit, and prospectively repealing the provision allowing certain state employees to receive a retirement allowance while in service.

If you have any questions or comments regarding this report, please do not hesitate to contact me.

MSD:co

cc: Study Committee Members
Pam Smarling, Committee Researcher

**Final Report of the Committee to Study the Eligibility of State Employees to Receive
A Retirement System Benefit While in Service**

(HB 1469; Chapter 137, Laws of 2002)

November 1, 2002

Membership:

Rep. Merton S. Dyer
Rep. Carl G. Robertson
Rep. Donald R. Lent

Sen. Lou D'Allesandro
Sen. Carl R. Johnson
Sen. Gary R. Francoeur

The committee met on August 13, October 17 and October 29, 2002.

Rep. Merton S. Dyer was elected as Chairman of the committee.

In the course of their meetings, the committee reviewed and discussed the history of RSA 100-A:3, I(c). HB 123 was introduced in the 2001 legislative session to allow one unclassified employee to retain his status as a member of Group II of the New Hampshire Retirement System (NHRS) although he did not fit the definition of a Group II member. HB 123, was amended in the Senate to allow any unclassified or non-classified employee who is eligible for retirement to withdraw from membership and collect a retirement annuity while continuing to work for the state. An employee who elected to exercise his rights under this new law would continue to work for the state, collect his salary plus a retirement annuity and would discontinue contributions towards his retirement. The annuity amount would be calculated using the years of service and average final compensation attained at the time that he or she elected to 'retire' under this provision. Any additional years of service or higher salary amounts would not be calculated into a revised retirement benefit. The benefit would be 'frozen' for this employee.

The House concurred with the Senate changes to HB 123, late in the 2001 session. The bill became Chapter 105, Laws of 2001. The new statute, RSA 100-A:3, I(c), became effective on June 26, 2001.

In the following months, questions arose concerning the adoption of this new law. Some people expressed the opinion that the ability to receive a retirement annuity in addition to a high level commissioner's salary was a boon for management level employees. They considered it unfair that such an option was not available to classified state employees. Rep. Henry Mock sponsored HB 1469 in the 2002 legislative session. As originally introduced, HB 1469 would have amended RSA 100-A:3, I(c), to allow

employees to withdraw from the NHRS and collect benefits while continuing to work for the state for a maximum of three years only. This bill would have applied to all classified, unclassified and non-classified state employees.

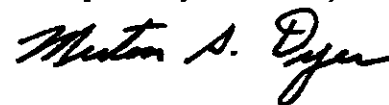
The House Executive Departments and Administration Committee offered a floor amendment to HB 1469, which was adopted by the full House in March 2002. Under this amendment:

1. RSA 100-A:3, I(c) was repealed effective July 1, 2003
2. a moratorium on the application of RSA 100-A:3, I(c) to members who became eligible to retire under the law after the effective date of the bill was established; and
3. a committee to study the issues raised by RSA 100-A:3, I(c) was established

This committee was specifically charged with studying "the benefits and concerns of allowing unclassified, non-classified and classified state employees, or other retirement system members, to elect to receive a retirement system allowance while remaining in service." In reviewing this issue, staff of NHRS reported that a total of 231 unclassified and non-classified employees were eligible to receive an annuity and continue working under RSA 100-A:3, I(c). As of October 28, 2002, a total of 52 employees had applied to receive an annuity under this section. Committee members noted that under the language of the moratorium, the remaining 179 eligible employees still could apply for the annuity if they do so prior to July 1, 2003.

After lengthy discussions, the members of the committee determined that the repeal of RSA 100-A:3, I(c) should be allowed to take effect as scheduled under Chapter 137, Laws of 2002. Committee members recommended no further legislation at this time. This will effectively terminate the ability to elect this option to all employees. ~~The employees that did avail themselves of this opportunity will continue to receive their retirement annuity in the amount calculated at the time that their participation in the system was terminated.~~

Respectfully submitted,



Rep. Merton S. Dyer, Chairman

Voting Sheets

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 1576-FN

BILL TITLE: relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.

DATE: February 2, 2010

LOB ROOM: 306

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Sullivan

Seconded by Rep. McMahon

Vote: 17-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

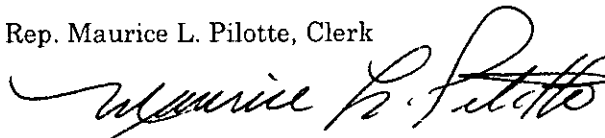
CONSENT CALENDAR VOTE: 17-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Maurice L. Pilotte, Clerk



HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 1576-FN

BILL TITLE: relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.

DATE: *4/20/10 2/2/10*

LOB ROOM: 306

Amendments:

Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *Sullivan*

Seconded by Rep. *McMahon*

Vote: *17-0* (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: *17-0*

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Maurice L. Pilotte, Clerk

Maurice L. Pilotte

Committee Report

CONSENT CALENDAR

February 4, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on EXECUTIVE DEPARTMENTS AND
ADMINISTRATION to which was referred HB1576-FN,**

AN ACT relative to certain retirement system

beneficiaries receiving a retirement allowance while in

active service. Having considered the same, report the

same with the recommendation that the bill be

REFERRED FOR INTERIM STUDY.

Rep. Daniel J Sullivan

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	EXECUTIVE DEPARTMENTS AND ADMINISTRATION
Bill Number:	HB1576-FN
Title:	relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.
Date:	February 4, 2010
Consent Calendar:	YES
Recommendation:	REFER TO COMMITTEE FOR INTERIM STUDY

STATEMENT OF INTENT

The committee is concerned about a number of issues relating to the ability of certain state employees to collect a retirement allowance while working for the state. This bill addresses only some of these issues. The committee would like to review this entire issue in a comprehensive manner in interim study.

Vote 17-0.

Rep. Daniel J Sullivan
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB1576-FN, relative to certain retirement system beneficiaries receiving a retirement allowance while in active service. **REFER TO COMMITTEE FOR INTERIM STUDY.**

Rep. Daniel J Sullivan for EXECUTIVE DEPARTMENTS AND ADMINISTRATION. The committee is concerned about a number of issues relating to the ability of certain state employees to collect a retirement allowance while working for the state. This bill addresses only some of these issues. The committee would like to review this entire issue in a comprehensive manner in interim study. **Vote 17-0.**

Original: House Clerk
Cc: Committee Bill File

ED&A

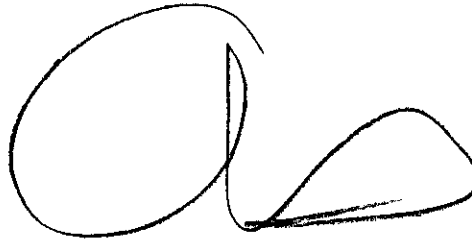
HB 1576

This bill would require employees who retire from state service with a New Hampshire Retirement System pension, and are subsequently rehired into state service while still receiving a retirement allowance, to opt in or out of the New Hampshire Retirement System at the time of hiring. The majority of the committee believed that as written, this would restrict too many department heads on who they could or could not hire, and that many qualified employees would be disqualified from state service.

Rep. D. Sullivan

Rep. AM Irwin,

The committee is concerned about a number of issues relating to the ability of certain state employees to collect a retirement allowance while working for the state. This bill addresses only some of these issues. The committee would like to review this entire issue in a comprehensive manner in interim study.

A large, stylized handwritten signature in black ink, likely belonging to Rep. AM Irwin, is written across the bottom of the page. The signature is enclosed within a hand-drawn rectangular border that also contains the text above it.

HB 1576: RECOMMENDED FOR FUTURE LEGISLATION. The committee feels this subject warrants future legislation. Retired state and political subdivision employees currently can come back to work in a pensionable position while drawing their pension. The committee feels that there should be legislation to prevent such practice. Rep. Daniel J. Sullivan

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

INTERIM STUDY

EXECUTIVE SESSION on HB 1576-FN

BILL TITLE: relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.

DATE: October 13, 2010

LOB ROOM: 306

RECOMMENDED FOR FUTURE LEGISLATION

LSR No. _____
(If legislation is already filed, list LSR No.)

NOT RECOMMENDED FOR FUTURE LEGISLATION

Moved by Rep. McMahan

Seconded by Rep. Hawkins

Vote: 13-2 (Please attach record of roll call vote.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Maurice Pilotte, Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

INTERIM STUDY

EXECUTIVE SESSION on HB 1576-FN

BILL TITLE: relative to certain retirement system beneficiaries receiving a retirement allowance while in active service.

DATE: October 13, 2010

LOB ROOM: 306



RECOMMENDED FOR FUTURE LEGISLATION

LSR No. _____
(If legislation is already filed, list LSR No.)



NOT RECOMMENDED FOR FUTURE LEGISLATION

Moved by Rep.

McMahon

Seconded by Rep.

Hawkins

Vote: *132* (Please attach record of roll call vote.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Maurice Pilotte, Clerk

Maurice P. Pilotte

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

Bill #: AB.1576 Title: relative to certain retirement system beneficiaries receiving a retirement allowance while in active service

PH Date: 06/20/10 Exec Session Date: 10/13/10

Motion: Recommended for future legislation Amendment #: _____

MEMBER	YEAS	NAYS
Harding, Laurie, Chairman	✓	
Pilotte, Maurice L, Clerk	✓	
McMahon, Patricia M	✓	
Judy, Jean L	Absent	
Schmidt, Peter B	✓	
Beck, Catriona D	✓	
Sullivan, Daniel J	✓	
Petterson, Don	✓	
Harvey, Suzanne	Absent	
Flurey, Joan S	✓	
Hawkins, Ken	✓	
Day, Russell C	Absent	
Reagan, John M		✓
Gould, Kenneth H	✓	
Scamman, Stella	✓	
McGuire, Carol M	✓	
Pratt, Calvin D	Absent	
Ryder, Donald F	✓	
Vita, Carol M		✓
TOTAL VOTE:	13-2	