

Bill as Introduced

SB 127-FN - AS INTRODUCED

2011 SESSION

11-0415

10/09

SENATE BILL *127-FN*

AN ACT relative to the city of Manchester's contributory retirement system.

SPONSORS: Sen. D'Allesandro, Dist 20; Rep. D. Sullivan, Hills 8; Rep. Baroody, Hills 13;
Rep. Goley, Hills 8

COMMITTEE: Public and Municipal Affairs

ANALYSIS

This bill makes housekeeping changes to provisions for accidental and ordinary death benefits of members and beneficiaries of the contributory retirement system of the city of Manchester.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the city of Manchester's contributory retirement system.

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

1 1 Manchester Retirement System; Benefits Upon Death of a Member. 1973, 218:16, as amended
2 by 2002, 194; 2003, 16:1; and 2007, 45:1 is repealed and reenacted to read as follows:

3 218:16 Benefits Upon Death of a Member.

4 I. Accidental Death Benefits.

5 (a) If, upon the receipt by the board of trustees of proper proof of the death of a member
6 in service indicating that such death was the natural and proximate result of an accident occurring
7 while in the performance of duty at some definite time and place, the board decides that death was
8 the result of an accident in the performance of duty and not caused by the member's own gross
9 negligence, recklessness, or willful misconduct, the member's surviving spouse shall be entitled to
10 the larger of an annual benefit equal to 50 percent of the member's final average earnings paid in
11 equal monthly installments or a monthly benefit computed according to the member's creditable
12 service and final average earnings for the 100 percent contingent annuitant option inclusive of the
13 early retirement reduction of 2 percent per year for each year prior to member's normal retirement
14 age. In lieu of either option, the member's surviving spouse may instead elect a lump sum payment
15 as described in paragraph I(c).

16 (b) If at the time of death, the member is not survived by a spouse and the member has
17 designated their child or children under age 18 as his or her beneficiary/beneficiaries pursuant to
18 section 19 of this act, then the annual benefit described in paragraph I(a) shall be payable to the
19 member's child or children under such age, divided in such manner as the board in its discretion
20 shall determine, to continue for the benefit of such child or children under said age until every child
21 dies or attains age 18. In lieu of this annual benefit, the child or children may instead elect a lump
22 sum payment as described in paragraph I (c). The retirement system shall be fully protected in
23 making any payment hereunder required to be made to a minor if such payment is made to a
24 custodian or guardian for such minor.

25 (c) If the member does not have a surviving spouse or children, there shall be payable to
26 the beneficiary designated by the member pursuant to section 19 of this act, if living, otherwise to
27 the member's estate, a lump sum equal to the deceased member's annual base salary at the time of
28 death, in addition to a refund of contributions plus regular interest until the date of payment as
29 provided under section 11, paragraph I.

30 II. Ordinary Death Benefits.

1 (a) Upon receipt by the board of trustees of proper proof of the death of a member in
2 service indicating that such death was not the result of an accident occurring while in the
3 performance of duty, there shall be a death benefit payable to the member's surviving spouse, if
4 living, otherwise to the member's designated beneficiary or the member's estate.

5 (b) If at the time of death, the member has at least 5 years of creditable service or
6 qualifies to retire under the retirement provisions of section 12 or section 14 of this act, and has a
7 spouse, the member's spouse shall be entitled to receive a monthly lifetime benefit equal to the
8 greater of either 50 percent of the service retirement benefit straight life option without reduction
9 that would have been payable to the member had they been eligible to retire immediately prior to
10 death based upon final average earnings and creditable service or, a monthly benefit computed
11 according to the member's creditable service and final average earnings for the 100 percent
12 contingent annuitant option inclusive of the early retirement reduction of 2 percent per year for each
13 year prior to the member's normal retirement age. In lieu of either option, the surviving spouse may
14 instead elect a lump sum equal to the deceased member's annual base salary at the time of death, in
15 addition to a refund of the member's contributions plus regular interest until the date of payment as
16 provided under section 11, paragraph I.

17 (c) If at the time of death, the member has at least 5 years of creditable service or
18 qualifies to retire under the retirement provisions of section 12 or section 14 of this act, but is not
19 survived by a spouse, and has designated his or her child or children under age 18 as his or her
20 beneficiary or beneficiaries, there shall be payable divided in such manner as the board in its
21 discretion shall determine, to continue for the benefit of such child or children under said age until
22 every child dies or attains age 18, the greater of either 50 percent of the service retirement benefit
23 straight life option without reduction that would have been payable to the member had they been
24 eligible to retire immediately prior to death based upon final average earnings and creditable service
25 or, a monthly benefit computed according to the member's creditable service and final average
26 earnings for the 100 percent contingent annuitant option inclusive of the early retirement reduction
27 of 2 percent per year for each year prior to member's normal retirement age or, a lump sum equal to
28 the deceased member's annual base salary at the time of death, in addition to a refund of
29 contributions plus regular interest until the date of payment as provided under section 11,
30 paragraph I.

31 (d) If at the time of death, the member has at least 5 years of creditable service or
32 qualifies to retire under the retirement provisions of section 12 or section 14 of this act but is not
33 survived by a spouse, and the member's beneficiary is a child or children over age 18 or a person
34 other than the member's spouse, then there shall be payable to the beneficiary if living, otherwise to
35 the member's estate, a lump sum equal to the deceased member's annual base salary at the time of
36 death, in addition to a refund of the member's contributions plus regular interest until the date of
37 payment as provided under section 11, paragraph I.

1 (e) If at the time of death, the member did not have at least 5 years of creditable service
2 or did not qualify under the retirement provisions of section 12 or section 14 of this act, there shall
3 be payable to the member's spouse, if living, or the member's designated beneficiary or beneficiaries,
4 if other than the member's spouse, if living, otherwise to the member's estate, a lump sum benefit
5 equal to the deceased member's annual base salary at the time of death in addition to a refund of
6 contributions plus regular interest until the date of payment as provided under section 11,
7 paragraph I.

8 III. Return of Excess Accumulated Contributions Upon Death of a Member. Upon the death
9 of a member after his or her retirement allowance payments have commenced, provided the member
10 has not elected an optional allowance that has become effective, any excess of the member's
11 contributions at retirement over the sum of the retirement allowance payments received shall be
12 paid in one sum to the person or persons nominated by the member, if living, otherwise to the
13 member's estate. Upon the death of the survivor of a member and the beneficiary nominated by
14 them under the terms of an option, if an option was elected and had become effective, any excess of
15 the retired member's contributions at retirement over the sum of the retirement allowance payments
16 received by the retired member and such beneficiary shall be paid to the person nominated by the
17 member, if living, otherwise to the estate of the last to survive of the member and such beneficiary.
18 Nomination of a person to receive the return of the member's contributions pursuant to this section
19 shall be made by the member in writing filed with the retirement system prior to retirement. A
20 member may change his or her nomination by a similar writing. A designation, revocation, or
21 change of the person nominated under an optional election may be made only at the time the
22 member retires, and is an irrevocable election.

23 2 Effective Date. This act shall take effect upon its passage.

LBAO
11-0415
01/14/11

SB 127-FN - FISCAL NOTE

AN ACT relative to the city of Manchester's contributory retirement system.

FISCAL IMPACT:

The Manchester Employees' Contributory Retirement System states this bill will increase local expenditures by an indeterminable amount in FY 2011 and in each fiscal year thereafter. There will be no fiscal impact on state, county and local revenues, or state and county expenditures.

METHODOLOGY:

The Manchester Employee's Contributory Retirement System states this bill makes certain housekeeping changes related to accidental and ordinary death benefit provisions. The System states as a result of this bill, employer contribution rates may increase anywhere from 0% to 0.02%. The System states estimated annual payroll is \$50,547,690 and if this bill were to increase the employer contribution rate by 0.02%, it would result in an increase to local expenditures of \$10,110 ($\$50,547,690 \times 0.02\%$) in FY 2011 and in each fiscal year thereafter.

CHAPTER 21
SB 127-FN - FINAL VERSION

2011 SESSION

11-0415
10/09

SENATE BILL

127-FN

AN ACT

relative to the city of Manchester's contributory retirement system.

SPONSORS:

Sen. D'Allesandro, Dist 20; Rep. D. Sullivan, Hills 8; Rep. Baroody, Hills 13;
Rep. Goley, Hills 8

COMMITTEE:

Public and Municipal Affairs

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SB 127-FN - FINAL VERSION

11-0415
10/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to the city of Manchester's contributory retirement system.

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

1 21:1 Manchester Retirement System; Benefits Upon Death of a Member. 1973, 218:16, as
2 amended by 2002, 194; 2003, 16:1; and 2007, 45:1 is repealed and reenacted to read as follows:

3 218:16 Benefits Upon Death of a Member.

4 I. Accidental Death Benefits.

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8 the result of an accident in the performance of duty and not caused by the member's own gross
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CHAPTER 21
SB 127-FN - FINAL VERSION
- Page 2 -

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CHAPTER 21
SB 127-FN – FINAL VERSION
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1 death, in addition to a refund of the member's contributions plus regular interest until the date of
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20 Nomination of a person to receive the return of the member's contributions pursuant to this section
21 shall be made by the member in writing filed with the retirement system prior to retirement. A
22 member may change his or her nomination by a similar writing. A designation, revocation, or
23 change of the person nominated under an optional election may be made only at the time the
24 member retires, and is an irrevocable election.

25 21:2 Effective Date. This act shall take effect upon its passage.

26
27 Approved: April 25, 2011
28 Effective Date: April 25, 2011

Committee Minutes

**SENATE CALENDAR NOTICE
PUBLIC AND MUNICIPAL AFFAIRS**

ATTENDANCE

- ✓ Senator John Barnes, Jr. Chairman
- ✓ Senator Jeanie Forrester V Chairman
- ✓ Senator David Boutin
- ✓ Senator Amanda Merrill
- ✓ Senator Nancy Stiles

START: 11:38 AM
STOP: 11:45 AM

For Use by Senate Clerk's Office ONLY

Bill Status

Docket

Calendar

Proof: Calendar Bill Status

Date: February 1, 2011

HEARINGS

Tuesday

2/8/2011

PUBLIC AND MUNICIPAL AFFAIRS

LOB 101

9:00 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

9:00 AM	SB140-FN	relative to the disposition of military justice fines.
9:15 AM	SB94	relative to state certification of community residences in municipalities with zoning ordinances which accommodate certified community residences.
10:00 AM	SB104	relative to certain agricultural operations.
10:15 AM	SB127-FN	relative to the city of Manchester's contributory retirement system.
10:30 AM	SB135-FN-A	relative to election returns and election records.

Sponsors:

SB140-FN	Sen. John Barnes, Jr.	Sen. Amanda Merrill	Sen. David Boutin	
SB94	Sen. Jeb Bradley	Rep. Christopher Ahlgren	Rep. J. David Knox	
SB104	Sen. Bob Odell	Rep. Robert Theberge	Rep. Gene Chandler	Rep. Elisabeth Sanders
SB127-FN	Sen. Lou D'Allesandro	Rep. Daniel Sullivan	Rep. Benjamin Baroody	Rep. Jeffrey Goley
SB135-FN-A	Sen. Sharon Carson	Sen. John Barnes, Jr.	Rep. Kathleen Hoelzel	

Debra Martone 271-3092

Sen. John Barnes, Jr.

Chairman

Public and Municipal Affairs Committee

Hearing Report

TO: Members of the Senate

FROM: Deb Martone, Legislative Aide

RE: Hearing report on SB 127-FN – relative to the city of Manchester's contributory retirement system.

HEARING DATE: February 8, 2011

MEMBERS OF THE COMMITTEE PRESENT: Senators Barnes, Forrester, Merrill, Boutin and Stiles.

MEMBERS OF THE COMMITTEE ABSENT: No one.

Sponsor(s): Senator D'Allesandro; Representatives Daniel Sullivan, Baroody and Goley.

What the bill does: makes housekeeping changes to provisions for accidental and ordinary death benefits of members and beneficiaries of the contributory retirement system of the city of Manchester.

Who supports the bill: Senator D'Allesandro; Representatives Daniel Sullivan, Baroody, Goley and Pilotte; Russell Maccabe; Gerard Fleury, Manchester Employees' Retirement System.

Who opposes the bill: No one.

Summary of testimony received:

- Senator D'Allesandro introduced the bill, explaining that it is required based on a 1973 law which allowed the city of Manchester to create its own retirement system. Each time a change is made to the retirement system, approval to make the change must be acquired by the Legislature, and then it goes back to the city.
- The bill is a series of housekeeping changes to provisions for accidental and ordinary death benefits of members and beneficiaries of the contributory retirement system of Manchester.

- The bill has the full support of the Mayor and Board of Aldermen. There is no fiscal impact on the state.
- Senator Barnes inquired as to whether or not the city of Concord had the same situation. Or perhaps it's Nashua? Senator D'Allesandro believes it's the city of Nashua, but there are only a few cities that have been granted the right to have their own retirement system, which must first be approved by the Legislature, and then by the local governing body.
- Gerard Fleury, the Executive Director of the Manchester Employees' Contributory Retirement System reiterated the fact that the bill was a housekeeping measure. For a number of years they have had death benefit provisions ensuring certain benefits are available to the family if a member dies while in service to the city. Upon examining the law, however, they came to recognize that segments may be confusing and that members may be unclear as to what they are entitled to.
- There was a fundamental oversight in the original plan. If an individual working for the city for many years and entitled to a retirement benefit stated their intention to retire the next month, for example, they would be entitled to a certain benefit based upon how long they had been working. If that individual died on a weekend, the calculation of this benefit might be anywhere from 50-60 percent of their wages prior to retirement. But if that same employee got killed on the job, the family would only receive 50 percent of the benefit. There was no leeway in the way the in-service death benefit was written. And the travesty was that the individual had already earned a larger benefit. This bill seeks to remedy such a situation.
- The Board of Mayor and Aldermen unanimously approved this concept on December 7, 2010.
- There is a small fiscal impact, which results from the fact if the member who was killed on the job was actually able to collect their full retirement benefit, not limited to the 50 percent, the pension fund would be paying out a little bit more. The actuary has cost that in, and the Board of Mayor and Aldermen have accepted that cost.
- On February 1, 2011 the Mayor and Alderman revisited this issue and ratified their earlier support. Mayor Gatsas has submitted a letter to committee members, urging support of the bill.

Action: Senator Boutin made a motion of Ought to Pass on the bill. Senator Merrill seconded the motion. The vote was 5-0 in favor. Senator Boutin will report the bill out of committee.

dam

[file: SB 127-FN report]

Date: February 9, 2011

Speakers

Testimony



CITY OF MANCHESTER

Theodore L. Gatsas

Mayor

February 2, 2011

The Honorable John S. Barnes, Jr., Chairman
Senate Public & Municipal Affairs Committee
107 No Main Street
Concord, NH 03301

RE: SB 127: Relative to the City of Manchester's contributory retirement system (SUPPORT)

Dear Chairman Barnes & Honorable Members of the Senate Public & Municipal Affairs Committee,

I correspond today in support of **SB 127: Relative to the City of Manchester's contributory retirement system**. With the full support of the Board of Aldermen (official action taken at the regular Board of Mayor and Aldermen Meeting on February 1, 2011) we respectfully request that your committee look favorably upon this legislation.

This legislation is a simple housekeeping measure for issues unique to the Manchester Contributory Retirement Systems and will not effect other municipalities in the State of New Hampshire.

Thank you in advance for your positive consideration of SB 127. Should you have any questions please feel free to contact me or inquire with Gerard Fleury, Executive Director, who has agreed to testify in person on behalf of the Manchester Contributory Retirement System.

Regards,

Theodore L. Gatsas
Mayor

cc: Board of Aldermen
Senator Lou D'Allesandro, Prime Sponsor
Matt Normand, City Clerk
Legislative Delegation representing the City of Manchester
Deb Martone, Committee Aide
Gerard Fleury, Executive Director Manchester Retirement System
Dave Alukonis

TLG/swp

*Matthew Normand
City Clerk*




*Kathleen Gardner
Deputy City Clerk*

CITY OF MANCHESTER
Office of the City Clerk

MEMORANDUM

To: Gerard Fleury
Executive Director
Manchester Employees' Contributory Retirement System

From: Matthew Normand 
City Clerk

Date: December 8, 2010

Re: Legislative Amendment to the Retirement System

Please be advised that at a meeting of the Board of Mayor and Aldermen held on December 7, 2010, it was voted approve your communication regarding the legislative amendment to the retirement system.

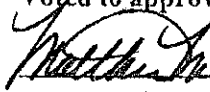
Enclosure

pc: William Sanders, Finance Officer

**CITY OF
MANCHESTER
EMPLOYEES'
CONTRIBUTORY
RETIREMENT
SYSTEM**

1045 ELM ST. • SUITE 403
MANCHESTER, NH 03101-1824
PHONE (603) 624-6506
FAX (603) 624-6342

In Board of Mayor and Aldermen
Date: 12/07/10
On motion of Ald. Osborne
Seconded by Ald. Shaw
Voted to approve.

 City Clerk

Honorable Board of Mayor & Aldermen
C/O Office of the City Clerk
One City Hall Plaza
Manchester, NH 03101


December 7, 2010

Honorable Members:

I am writing to inform you that the Manchester Employees' Contributory Retirement System, (MECRS) will be seeking relatively cost neutral housekeeping legislation on certain in-service death benefit provisions currently incorporated in the Plan, and to seek your support for this initiative. Amendments to the existing law are being sought because it was discovered that when a city employee in the plan dies unexpectedly, either on the job or at home, that death benefits available to survivors can unintentionally be constrained contrary to the intent of the employee and the best interests of those survivors. In order to correct these newly recognized issues, while seeking to avoid any perception of impropriety, you are being notified early of the Plan's intentions. Senator Lou D'Allesandro has agreed to sponsor a bill for MECRS in the 2011 session of the NH Legislature but since the draft has yet to be entered into the legislative bill tracking system and assigned an LRS or Senate bill number, you have been provided with a copy of what is being submitted, along with a written fiscal impact letter from the MECRS' actuary.

The bill was carefully edited by counsel to provide a clearer description and better understanding of statutory intent dating back to the inception of the Plan, and to avoid any meaningful effect on the cost of benefits. The objective was to correct language problems which could harm survivors and lead to litigation while having the cost changes associated with language amendments net as closely as possible to zero. For that reason, this corrective measure should not require a referendum vote on a City ballot the way that a change in benefit entitlements would. Before taking the bill before various committees in the New Hampshire Legislature, we are seeking the concurrence of the Board of Mayor and Aldermen so that the legislature will know that local authority has not been circumvented.

Because plans changes tend to be technical and somewhat complex, I am available to answer any questions on the draft legislation and the actuary's cost analysis which were attached to this letter.


Gerard E. Fleury - Executive Director
Manchester Employees' Contributory Retirement System

cc: MECRS Board of Trustees

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: February 8, 2011

THE COMMITTEE ON Public and Municipal Affairs

to which was referred Senate Bill 127-FN

AN ACT relative to the city of Manchester's contributory
retirement system.

Having considered the same, the committee recommends that the Bill:

· OUGHT TO PASS

BY A VOTE OF: 5-0

AMENDMENT # s

Senator David R. Boutin
For the Committee

Debra Martone 271-3092

New Hampshire General Court - Bill Status System

Docket of SB127

Docket Abbreviations

Bill Title: relative to the city of Manchester's contributory retirement system.*Official Docket of SB127:*

Date	Body	Description
1/19/2011	S	Introduced and Referred to Public and Municipal Affairs, SJ 3 , Pg.37
2/1/2011	S	Hearing: 2/8/2011, Room 101, LOB, 10:15 a.m.; SC10
2/9/2011	S	Committee Report: Ought to Pass, 2/16/2011; SC11
2/16/2011	S	Ought to Pass, MA, VV; OT3rdg, SJ 5 , Pg.57
2/16/2011	S	Passed by Third Reading Resolution, SJ 6 , Pg.61
2/16/2011	H	Introduced and Referred to Executive Departments and Administration; HJ 19 , Pg.439
3/15/2011	H	Public Hearing: 3/22/2011 1:15 PM LOB 306 ==Executive Session to Follow==
3/24/2011	H	Committee Report: Ought to Pass for Mar 30 (Vote 15-0; CC); HC 27 , PG.814
3/30/2011	H	Ought to Pass: MA VV; HJ 34 , PG.1090
4/13/2011	H	Enrolled; HJ 37 , Pg.1304
4/13/2011	S	Enrolled; SJ 13 , Pg.260
4/28/2011	S	Signed by the Governor on 04/25/2011; Effective 04/25/2011; Chapter 0021

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

SB127-FN ORIGINAL REFERRAL _____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- PREPARED TESTIMONY AND OTHER SUBMISSIONS HANDED IN AT THE PUBLIC HEARING

SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

____ - AMENDMENT # _____ ____ - AMENDMENT # _____
____ - AMENDMENT # _____ ____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED ____ AS AMENDED BY THE HOUSE
 FINAL VERSION ____ AS AMENDED BY THE SENATE

____ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

DATE DELIVERED TO SENATE CLERK

07/29/11

BY:

Debra Q. Martore
COMMITTEE AIDE