

Bill as Introduced

HB 654-FN-LOCAL - AS INTRODUCED

2011 SESSION

11-1114
10/09

HOUSE BILL

654-FN-LOCAL

AN ACT

relative to credit for retirement system employer contribution overpayments.

SPONSORS:

Rep. Jasper, Hills 27; Rep. O'Brien, Hills 4; Rep. Reagan, Rock 1; Rep. Rodeschin, Sull 2; Rep. Munck, Straf 2; Rep. Long, Hills 10; Rep. Flanagan, Hills 5; Rep. Chandler, Carr 1; Sen. Carson, Dist 14

COMMITTEE:

Special Committee on Public Employee Pensions Reform

ANALYSIS

This bill requires the retirement system to credit overpayments by retirement system employers made prior to the recertification of employer contribution rates.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to credit for retirement system employer contribution overpayments.

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

1 1 New Hampshire Retirement System; Credit for Certain Employer Payments. To the extent
2 that retirement system employer contribution percentage rates in effect for any month of the state
3 fiscal year beginning July 1, 2011 exceed the rates made effective following the recertification of
4 employer contribution rates under 2011, 224:188, any overpayment based on the rates prior to
5 recertification shall be credited to the benefit of the employer against future payments. The
6 retirement system shall determine the amounts by which a retirement system employer made
7 payments at a contribution percentage rate greater than the recalculated rate recertified as required
8 in 2011, 224:188, and such amounts shall be deemed overpayments to be credited to the respective
9 employer during the remainder of the state fiscal year.

10 2 Effective Date. This act shall take effect upon its passage.

LBAO
11-1114
09/09/11

HB 654-FN-LOCAL - FISCAL NOTE

AN ACT relative to credit for retirement system employer contribution overpayments.

FISCAL IMPACT:

The New Hampshire Retirement System states this bill will decrease state expenditures by \$1,795,249 in FY 2012 and will decrease county and local expenditures by \$4,161,723 in FY 2012. There will be no fiscal impact on state, county or local revenues.

METHODOLOGY:

The New Hampshire Retirement System states this bill would produce employer contribution credits for any month in state fiscal year 2012 in which the employer contribution rates in effect for the month exceeded the employer contribution rates in effect following the recertification of rates under chapter 224:188, laws of 2011. As rates were recertified effective August 1, 2011, the only month for which contribution credits would be generated would be July 2011. The System states the amounts of the estimated credits were determined by subtracting from the originally certified employer contribution rates, the employer contribution rates as recertified effective August 1, 2011, and multiplying the difference by the applicable pensionable salaries for July 2011, as reported by all participating employers.

	A	B	C	D	E
	July 2011 Certified Rate	August 2011 Recertified Rate	Rate Difference (A - B)	July 2011 Pensionable Salaries	Contribution Credit (C X D)
<u>State</u>					
Employees	12.31%	10.08%	2.23%	\$57,456,058	\$1,281,270
Police	25.57%	19.95%	5.62%	\$8,494,797	\$477,408
Fire	30.90%	22.89%	8.01%	\$456,572	\$36,571
Total					\$1,795,249
<u>Political Subdivisions</u>					
Employees	11.09%	8.80%	2.29%	\$59,978,167	\$1,373,500
Teachers	13.95%	11.30%	2.65%	\$34,081,040	\$903,148
Police	25.57%	19.95%	5.62%	\$18,959,403	\$1,065,518

HB 654-FN-LOCAL

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Fire	30.90%	22.89%	8.01%	\$10,231,667	\$819,557
Total					\$4,161,723

The System states the administrative cost of implementing this bill can be absorbed within its existing budget.

Amendments

Rep. Kurk, Hills. 7
September 27, 2011
2011-2630h
10/04



Amendment to HB 654-FN-LOCAL

NOT
PROPOSED

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to certain retirement system contributions.

4

5 Amend the bill by replacing all after the enacting clause with the following:

6

7 1 New Hampshire Retirement System; Transfer; Credit Against Certain Employer Payments.

8 Any additional amounts collected during July 2011 by a retirement system employer, as defined in

9 RSA 100-A:1, as employee contributions and which are attributable to the increase in employee

10 contribution rates under RSA 100-A:16, I(a)(1) and (2) over the rates in effect immediately prior to

11 July 1, 2011 shall be transferred to the state annuity accumulation fund and credited to the benefit

12 of the respective employer for the state fiscal year ending June 30, 2012, provided that any such

13 transferred amount shall not exceed the amount by which a retirement system employer made

14 payments during the month of July 2011 at a contribution percentage rate greater than the

15 recalculated rate recertified as required in 2011, 224:188.

16 2 Effective Date. This act shall take effect upon its passage.



Amendment to HB 654-FN-LOCAL
- Page 2 -

2011-2630h

AMENDED ANALYSIS

This bill requires the transfer of certain employee contributions due to the increase in rates in the retirement system to be credited against employer contributions for the state fiscal year ending June 30, 2012.



NOT
PROPOSED

Amendment to HB 654-FN-LOCAL

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT making an appropriation for the offset of certain retirement system employer
4 overpayments.
5

6 Amend the bill by replacing all after the enacting clause with the following:

7

8 1 Appropriation; Retirement System. The sum of \$4,161,723 is hereby appropriated to the
9 New Hampshire retirement system for the purpose of crediting said sum to the benefit of retirement
10 system employers. The retirement system shall determine the amounts by which a retirement
11 system employer made payments for the month of July 2011 at a contribution percentage rate
12 greater than the recalculated rate recertified as required in 2011, 224:188 and shall credit from the
13 appropriated amount each employer's share of the total to the benefit of the respective retirement
14 system employer payments due for the remainder of the state fiscal year ending June 30, 2012. The
15 governor is authorized to draw a warrant for said sum out of any money in the treasury not
16 otherwise appropriated.

17 2 Effective Date. This act shall take effect upon its passage.



2011-2631h

AMENDED ANALYSIS

This bill makes an appropriation to the New Hampshire retirement system for the purpose of crediting retirement system employers for certain overpayments.



Amendment to HB 654-FN-LOCAL

NOT
PROPOSED

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT relative to the recalculation of rates of retirement system employers.
4

5 Amend the bill by replacing all after the enacting clause with the following:

6
7 1 Retirement System; Recalculation of Rates; Basis of Assumptions. Amend 2011, 224:188 to
8 read as follows:

9 224:188 Retirement System; Recalculation of Employer Rates; Recertification. Notwithstanding
10 the notice requirements of RSA 100-A:16, III, the board of trustees of the retirement system shall
11 recalculate employer contribution rates for the state fiscal years 2012 and 2013 to reflect the
12 requirements of amendments to RSA 100-A in the 2011 legislative session. The recalculation shall
13 be based on the demographic and economic assumptions as disclosed in the June 30, 2010 valuation
14 issued November 24, 2010 by the New Hampshire retirement system actuary, *and all such*
15 *demographic and economic assumptions and the assumed rate of return, in effect for that*
16 *valuation, shall remain in effect until such recalculation is completed.* Such recalculation
17 shall not use a changed assumed rate of return until fiscal year 2014. Notwithstanding the notice
18 requirements of RSA 100-A:16, III, such employer contribution rates shall be effective as soon as
19 possible following July 1, 2011 as approved by the board of trustees. The recertification of employer
20 contribution percentages by the board shall be effective when provided to each employer within a
21 reasonable period of time not to exceed 30 days from the approval of the recalculation by the board of
22 trustees, as amended by section 174 of this act, after July 1, 2011. The exception to the notice
23 requirements of RSA 100-A:16, III in this section shall be limited to the applicable employer
24 contribution rates for the biennium beginning July 1, 2011.

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



2011-2632h

AMENDED ANALYSIS

This bill clarifies the requirements for the recalculation of employer rates by the board of trustees of the retirement system.

Speakers

Hearing Minutes

HOUSE SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM

PUBLIC HEARING ON HB 654-FN-LOCAL

BILL TITLE: relative to credit for retirement system employer contribution overpayments.

DATE: September 22, 2011

LOB ROOM: 305 & 307 **Time Public Hearing Called to Order:** 10:00 a.m.
Time Adjourned: 11:18 a.m.

(please circle if present)

Committee Members: Reps. Hawkins, Sedensky, Shuler, W. Smith, Moran, Laware, Kurk, Waddell, Avard, Bowers, Winter, Cohn, Shurtleff, Barody, Long and D. Sullivan.

Bill Sponsors: Rep. Jasper, Hills 27; Rep. O'Brien, Hills 4; Rep. Reagan, Rock 1; Rep. Rodeschin, Sull 2; Rep. Munck, Straf 2; Rep. Long, Hills 10; Rep. Flanagan, Hills 5; Rep. Chandler, Carr 1; Sen. Carson, Dist 14

TESTIMONY

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

1. Rep. Shawn Jasper – Prime Sponsor – SUPPORTS

Downshifting of overpayment costs to local towns as a result of overpayments to the retirement system has put a burden on the individual towns. It results in additional costs to the towns of \$4M+. The problem was inadvertently caused by the legislature and must be fixed by the legislature. The situation would not have happened if the original bill, HB 3, had been passed on schedule.

ADDITIONAL TESTIMONY PRIOR TO ADJOURNMENT (KURK):

It is obvious what the legislative intent was with regard to which rate (old rate/new rate) was to be paid. The "new" rates had not yet been passed when the legislation moved through the assigned committee.

The legislature promised the municipalities that there would be no "downshifting" and, although it was inadvertent, this is definitely "downshifting". It is up to the legislature, therefore, to fix this problem using whatever funds can be found.

2. Kim France – Interim Executive Director, NRHS, representing the NHRS Board of Directors - OPPOSES

Recertification took place on August 1, 2011. The retirement system maintains that no overpayment was made since the recertification took place and the amount charged was the correct amount at the time. She states that this bill would violate Part 1, Article 36-A of the NH Constitution.

Rep. Kurk –Where is the \$3.5M that was set aside to cover this situation? Much discussion held on the disposition and purpose of this \$3.5M. Rep. Kurk challenges that the timing of the recertification was done contrary to the new law. The retirement system considers the retroactive nature of the bill as un constitutional.

Rep. Cohn – Taking money from the corpus slows the repayments of the unfunded liability. If the legislature decided to fund this repayment by use of funds from a source other than the retirement fund, the repayment of the unfunded liability would not be affected.

Rep. Bowers – Could this overpayment be neutralized by charging lower rates for the remainder of the period? Retirement system says that this, too, would be unconstitutional.

3. Rep. Beverly Rodeschin – Co-sponsor – SUPPORTS

Her district had additional charges that they could not absorb. She testified that the amount must be repaid.

4. Dean Michner – NH School Boards Association - SUPPORTS

Many school boards budgeted with this proposal in mind but many did not. He pointed out that when the bill increases after the school budgets are passed by vote, the schools must draw funds from other parts of their budgets. They understand that the payment will have to go up but object to imposing these new payments after budgets had been passed.

5. Rep. Jack Flanagan – Co-sponsor – SUPPORTS

The towns really need to be made whole. It is important that the towns know what needs to be paid in a timely manner and have faith that the legislature is doing their job in a good-faith manner.

ADDITIONAL TESTIMONY PRIOR TO ADJOURNMENT (FLANAGAN):

This is not the towns' or municipalities' fault. Fault is hard to find. It was inadvertent but the harmed parties are the political sub-divisions.

Respectfully submitted,

Rep. Steven J. Winter
Clerk

HOUSE SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM

PUBLIC HEARING ON HB 654-FN-LOCAL

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(please circle if present)

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Bill Sponsors: Rep. Jasper, Hills 27; Rep. O'Brien, Hills 4; Rep. Reagan, Rock 1; Rep. Rodeschin, Sull 2; Rep. Munck, Straf 2; Rep. Long, Hills 10; Rep. Flanagan, Hills 5; Rep. Chandler, Carr 1; Sen. Carson, Dist 14

TESTIMONY

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

Testimony

(2) TESTIMONY



NH Retirement System
54 Regional Drive
Concord, NH 03301
Phone: (603) 410-3500
www.nhrs.org

**House Bill 654 Opposed by NH Retirement System (NHRS) Board of Trustees
Testimony Presented to the Special Committee on Public Employee Pensions Reform
By Kim France, NHRS Interim Executive Director
September 22, 2011**

My name is Kim France, and I am the Interim Executive Director for the New Hampshire Retirement System. I am here on behalf of the New Hampshire Retirement System Board of Trustees to oppose House Bill 654.

House Bill 654 seeks to effectively reduce employer contributions made to the New Hampshire Retirement System in July 2011, by applying a credit for employers for the difference between the employer contribution rates in effect in July 2011, and the employer contribution rates that were recertified by the New Hampshire Retirement System Board of Trustees effective August 1, 2011, pursuant to House Bill 2, section 188. However, the employer contribution rates that took effect on July 1, 2011, were properly certified by the Board of Trustees in September 2010, pursuant to RSA 100-A:16, III, and, therefore, there was no "overpayment" of employer contributions in July 2011.

Section 188 of House Bill 2 expressly provided that the "old" employer contribution rates would remain in effect pending the recertification – the "old" rates being those rates properly and legally certified by the Board in September 2010, and effective July 1, 2011. Section 188 of House Bill 2 states, in part, "... such employer contribution rates shall be effective as soon as possible following July 1, 2011 [emphasis added] as approved by the board of trustees."

Article 36-a of the New Hampshire Constitution requires NHRS contributing employers to pay actuarially sound contribution rates certified by the Board of Trustees. Based on a review of House Bill 654 by its legal counsel, the Board asserts that a "credit" which would have the effect of making the recertification retroactive is a potential violation of Part I, Article 36-a of the New Hampshire Constitution.

Based on the aforementioned constitutionality concerns of House Bill 654, the New Hampshire Retirement System Board of Trustees opposes House Bill 654.

Thank you for your time to hear my testimony. I would be happy to address any questions you may have.

#



NHRS

New Hampshire Retirement System

Memo

VIA ELECTRONIC MAIL

To: Representative Shawn Jasper

From: Kim France, NHRS Interim Executive Director

Date: September 14, 2011

Re: HB 654

Cc: Sen. Carson; Speaker O'Brien; Reps. Chandler, Flanagan, Hawkins, Long, Munck, Reagan, and Rodeschin; NHRS Board of Trustees

I am contacting you and the other sponsors of House Bill 654, as well as the Chair of the Special Committee on Public Employee Pensions Reform, to notify all of you that the NH Retirement System (NHRS) Board of Trustees voted unanimously to oppose HB 654 at its meeting on September 13, 2011.

Based on a review by its legal counsel, the Board asserts that NHRS participating employers paid contributions for July at the rate that was certified by the Board per RSA 100-A:16, III, and, therefore, there were no "overpayments" made by employers. Furthermore, the Legislature, in Section 188 of House Bill 2, specifically made the employer rate recertification effective "as soon as possible after July 1, 2011." HB 654 has the effect of making the recertification retroactive, a potential violation of Part I, Article 36-a of the NH Constitution.

I am attaching a copy of the memo from Attorney Andrew Schulman to the NHRS Board dated September 5, 2011, that speaks to the potential constitutional issue.

Please contact me if you have any questions or if I may be of assistance.



1838 Elm Street, Manchester, NH 03104
Ph 603-634-4300 Fax 603-626-3647 www.gss-lawyers.com

Andrew R. Schulman, Esq. aschulman@gss-lawyers.com

Attorneys at Law

**PRIVILEGED AND CONFIDENTIAL
ATTORNEY WORK PRODUCT¹**

TO: NHRS Board of Trustees
CC: Kim France, NHRS Interim Executive Director
Tim Crutchfield, Esq. NHRS Legal Counsel

Ian Lanoff, Esq., Groom Law Group
Julia Zuckerman, Esq., Groom Law Group
Lonie Hassel, Esq., Groom Law Group

FROM: Andrew R. Schulman *[Signature]*
DATE: September 5, 2011

I have taken a look at LSR 11-114.0. As you know, that LSR would require NHRS to credit employers for so-called "overpayments." The "overpayments" equal the difference in the amount the employers paid in July 2011, using the "old" certified employer contribution rate for fiscal 2011, and the amount that they *would have paid* had the "new" certified contribution rate, required by HB 2, Section 188 been in effect.

However, there were no "overpayments." The "old" employer contribution rate was properly certified and was in effect until the "new" recertification was published. Section 188 expressly provided that the "old" rate would stay in effect pending the recertification:

Notwithstanding the notice requirements of RSA 100-A:16, III, such employer contribution rates shall be effective as soon as possible following July 1, 2011 as approved by the board of trustees. The recertification of employer contribution percentages by the board shall be effective when provided to each employer within a reasonable period of time not to exceed 30 days from the approval of the recalculation by the board of trustees, as amended by section 174 of this act, after July 1, 2011.

¹ On September 13, 2011, the NHRS Board of Trustees waived the attorney-client privilege with regard to this memorandum.



GETMAN,
SCHULTHEISS
& STEERE, P.A.

Attorneys at Law

1838 Elm Street, Manchester, NH 03104
Ph 603-634-4300 Fax 603-626-3647 www.gss-lawyers.com

Andrew R. Schulman, Esq. aschulman@gss-lawyers.com

Therefore, employers paid contributions for July at the rate that (a) the Board certified and (b) the Legislature expressly approved in Section 188, by making the recertification effective "as soon as possible after July 1, 2011."

I have grave concerns about the constitutionality of a "credit" that would have the effect of making the re-certification retroactive. Part 1, Article 36-a requires employers to pay contributions as "certified." By retroactively reducing the certified rate, I think this LSR would violate Article 36-a.

Please note that the Constitutional issue presented by the LSR is different from that presented in our current lawsuit over the constitutionality of the recertification. The lawsuit raises questions of (a) whether the Legislature can order a special recertification for future contributions based on future changes in benefit structure and member contribution rates and (b) whether the Legislature can require the use of the economic assumptions that the Board already used in for the existing certification.

In contrast, this LSR says nothing about a future recertification or the use of any criteria for recertification. It simply reduces the amount of future employer contributions based on the belief that the contribution rate for July should have been lower.



Dear Committee Members,

The New Hampshire Retirement Security Coalition is comprised of both union and nonunion groups that work together on issues pertaining to the New Hampshire Retirement System and the 76,000 active and retired police officers, teachers, fire fighters and state and local employees who rely on the System to provide a reasonable and secure retirement. We have worked with the NH legislature in the past and we worked diligently to provide fact-based information with regards to the sweeping pension reform changes discussed in both the House and the Senate last legislative session.

We find ourselves very troubled by the newest retirement bill introduced in the House: HB654-FN. This bill is relative to credit for retirement system employer contribution overpayments. These overpayments equate to taking out of the NH Retirement System fund over \$1.7 million and giving it to the State, and over \$4.6 million to the cities and towns. This legislation claims this payment is due because employer rates were decreased due to the passage of HB2 on June 30, 2011 that went into affect August 1, 2011. Therefore, employers overpaid for the month of July and are now due back these monies.

While it may sound tempting to remove monies for the NHRS fund and give it back to the employers, it is not financially sound. For the entire 2011 legislative session, legislators discussed how overbearing the Unfunded Actuarial Accrued Liability (UAAL) was for taxpayers, that was created in the 1990s when employers asked for artificially low rates that led to a seriously underfunded system. It is not financially wise at a time we are faced with an overwhelming bill that must be paid back, for employers to remove this money to lower their rates yet again, rather than pay off the UAAL they are responsible for.

It is decisions like these that got us into the situation we are in today. We cannot continue to repeat the mistakes of the past by making decisions that will underfund the system at every turn. Leaving the money in the system to pay off the UAAL would be a better way to help secure a finically stable retirement system and help to lower future employer rates. If this money is removed from the System's fund and given back to the employers, it only pushes the bill down the road further, which is a situation everyone agrees needs to be avoided. The UAAL is on a path to be paid off in the next 28 years. Removing more and more money from the System to lower employer rates, only makes these payments stretch on for a longer period of time. The only way the UAAL will go away is if employers make payments on time and in full. A good start to paying it down would be leaving this money in the System where it belongs.

We as taxpayers understand cities and towns are hurting right now and every dollar can make a difference, but spreading out this money will not make as big of an impact as it would if it was kept together and left in the system to help pay down the UAAL.

We encourage the members of this committee not to support this bill and to vote it Inexpedient to Legislate (ITL) out of committee.

Thank you for your time and consideration,

Members of the NH Retirement Security Coalition:

Sandy Amlaw, New Hampshire Retired Educators Association

Steve Arnold, NE Police Benevolent Association

Arthur Beaudry, New Hampshire State Permanent Fire Fighters Retirement Association

Chief James Burkush, New Hampshire Association of Fire Chiefs

Dennis Caza, Teamsters Union Local 633

Marc Beaudoin, New Hampshire Troopers Association

Laura Hainey, American Federation of Teachers – New Hampshire

Mark Joyce, NH School Administrators Association

Diana Lacey, State Employees Association of New Hampshire – SEIU Local 1984

Dave Lang, Professional Fire Fighters of New Hampshire

Mark MacKenzie, New Hampshire AFL-CIO

Harriett Spencer, American Federation of State County and Municipal Employees Council 93

Jeff Stiegler, New Hampshire Police Association

Rhonda Wesolowski, NEA - New Hampshire

Voting Sheets

HOUSE SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM

EXECUTIVE SESSION on HB 654-FN-LOCAL

BILL TITLE: relative to credit for retirement system employer contribution overpayments.

DATE: October 4, 2011

LOB ROOM: 301

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. Cohn

Seconded by Rep. Waddell

Vote: 6-3 (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: NO

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Steven Winter, Clerk

HOUSE SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM

EXECUTIVE SESSION on HB 654-FN-LOCAL

BILL TITLE: relative to credit for retirement system employer contribution overpayments.

DATE: October 4, 2011

LOB ROOM: ~~301~~ 303

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. CONN

Seconded by Rep. WADDELL

Vote: (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:

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Steven Winter, Clerk

SPECIAL COMMITTEE PUBLIC EMPLOYEE PENSIONS REFORM

Bill #: HB 654 Title: _____

PH Date: ____/____/____

Exec Session Date: 10 / 4 / 11

Motion: _____ Amendment #: _____

MEMBER	YEAS	NAYS
Hawkins, Kenneth, Chairman	X	
Sedensky, John B, V Chairman	X	
Shuler, Wyman E	X	
Smith, William B		
Moran, Edward P		
Kurk, Neal M		
Winter, Steven J, Clerk	X	
Avard, Kevin A		
Cohn, Seth	X	
Waddell, James A	X	
Bowers, Spec		
Laware, Thomas W		
Shurtleff, Stephen J		X
Baroody, Benjamin C		X
Long, Patrick T		
Sullivan, Daniel J		X
6-3		
TOTAL VOTE:		

Committee Report

REGULAR CALENDAR

October 5, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on SPECIAL

COMMITTEE PUBLIC EMPLOYEE PENSIONS

REFORM to which was referred HB654-FN-L,

AN ACT relative to credit for retirement system

employer contribution overpayments. Having

considered the same, report the same with the

recommendation that the bill OUGHT TO PASS.

Rep. Seth Cohn

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee: **SPECIAL COMMITTEE PUBLIC EMPLOYEE
PENSIONS REFORM**
Bill Number: **HB654-FN-L**
Title: **relative to credit for retirement system
employer contribution overpayments.**
Date: **October 5, 2011**
Consent Calendar: **NO**
Recommendation: **OUGHT TO PASS**

STATEMENT OF INTENT

This bill would credit retirement system employers for the increased rates they paid in July 2011, prior to the recertification of employer contribution rates as passed in HB 2, which took effect in August 2011. The unexpected rate increase occurred due to the timing of the passage of HB 2, and the retirement system used the rates previously certified to begin in July 2011, rather than using the new rates intended to begin in July. In order to continue our goal of no net downshifting to the towns and cities, a credit to the political subdivisions in the amount of slightly more than \$4 million is needed. This \$4 million dollar a month differential shows what would have happened with no legislative change to the retirement system at all, compared to the changes that we passed in HB 2. A question was raised regarding the constitutionality of this bill by the retirement system legal counsel, concerned by what they perceived as a retroactive action. The legislative intent that the rates previously certified to begin in July 2011 would not take effect, instead only the new rates from HB 2, was clearly discussed in multiple hearings, and we believe that this intent should be upheld.

Vote 6-3

Rep. Seth Cohn
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

**SPECIAL COMMITTEE PUBLIC EMPLOYEE PENSIONS REFORM
HB654-FN-L, relative to credit for retirement system employer contribution overpayments.
OUGHT TO PASS.**

Rep. Seth Cohn for the **Majority** of **SPECIAL COMMITTEE PUBLIC EMPLOYEE PENSIONS REFORM**. This bill would credit retirement system employers for the increased rates they paid in July 2011, prior to the recertification of employer contribution rates as passed in HB 2, which took effect in August 2011. The unexpected rate increase occurred due to the timing of the passage of HB 2, and the retirement system used the rates previously certified to begin in July 2011, rather than using the new rates intended to begin in July. In order to continue our goal of no net downshifting to the towns and cities, a credit to the political subdivisions in the amount of slightly more than \$4 million is needed. This \$4 million dollar a month differential shows what would have happened with no legislative change to the retirement system at all, compared to the changes that we passed in HB 2. A question was raised regarding the constitutionality of this bill by the retirement system legal counsel, concerned by what they perceived as a retroactive action. The legislative intent that the rates previously certified to begin in July 2011 would not take effect, instead only the new rates from HB 2, was clearly discussed in multiple hearings, and we believe that this intent should be upheld.
Vote 6-3.

Original: House Clerk
Cc: Committee Bill File

HB 654-FN

OTP

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Seth Cohn

COMMITTEE REPORT

COMMITTEE: RENSIGN REFORM

BILL NUMBER: HB 654

TITLE: _____

DATE: 10/4/11 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

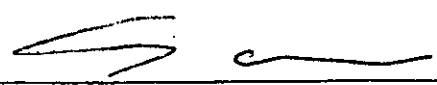
Amendment No.

STATEMENT OF INTENT:

COMMITTEE VOTE: 6-3

RESPECTFULLY SUBMITTED,

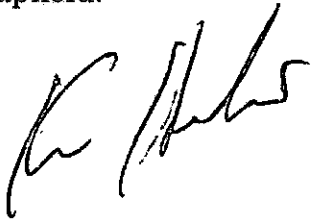
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Rep.  _____
For the Committee

HOUSE BILL *654-FN-LOCAL*

AN ACT relative to credit for retirement system employer contribution overpayments.

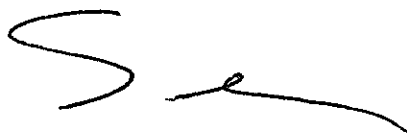
This bill would credit retirement system employers for the increased rates they paid in July 2011, prior to the recertification of employer contribution rates as passed in HB2, which took effect in August 2011. The unexpected rate increase occurred due to the timing of the passage of HB2, and the retirement system used the rates previously certified to begin in July 2011, rather than using the new rates intended to begin in July. In order to continue our goal of no net downshifting to the towns and cities, a credit to the political subdivisions in the amount of slightly more than \$4 million is needed. This \$4 million dollar a month differential shows what would have happened with no legislative change to the retirement system at all, compared to the changes that we passed in HB2. A question was raised regarding the constitutionality of this bill by the retirement system legal counsel, concerned by what they perceived as a retroactive action. The legislative intent that the rates previously certified to begin in July 2011 would not take effect, instead only the new rates from HB2, was clearly discussed in multiple hearings, and we believe that this intent should be upheld.

A handwritten signature in black ink, appearing to be "C. Huber", is located below the main text. The signature is written in a cursive, flowing style.

HOUSE BILL *654-FN-LOCAL*

AN ACT relative to credit for retirement system employer contribution overpayments.

This bill would credit retirement system employers for the increased rates they paid in July 2011, prior to the recertification of employer contribution rates as passed in HB2, which took effect in August 2011. The unexpected rate increase occurred due to the timing of the passage of HB2, and the retirement system used the rates previously certified to begin in July 2011, rather than using the new rates intended to begin in July. In order to continue our goal of no net downshifting to the towns and cities, a credit to the political subdivisions in the amount of slightly more than \$4 million is needed. This \$4 million dollar a month differential shows what would have happened with no legislative change to the retirement system at all, compared to the changes that we passed in HB2. A question was raised regarding the constitutionality of this bill by the retirement system legal counsel, concerned by what they perceived as a retroactive action. The legislative intent that the rates previously certified to begin in July 2011 would not take effect, instead only the new rates from HB2, was clearly discussed in multiple hearings, and we believe that this intent should be upheld.

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line that tapers to the right.

REGULAR CALENDAR

October 5, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Minority of the Committee on SPECIAL
COMMITTEE PUBLIC EMPLOYEE PENSIONS
REFORM to which was referred HB654-FN-L,**

**AN ACT relative to credit for retirement system
employer contribution overpayments. Having
considered the same, and being unable to agree with
the Majority, report with the following Resolution:
RESOLVED, That it is INEXPEDIENT TO LEGISLATE.**

Rep. Daniel J Sullivan

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee: **SPECIAL COMMITTEE PUBLIC EMPLOYEE
PENSIONS REFORM**
Bill Number: **HB654-FN-L**
Title: **relative to credit for retirement system
employer contribution overpayments.**
Date: **October 5, 2011**
Consent Calendar: **NO**
Recommendation: **INEXPEDIENT TO LEGISLATE**

STATEMENT OF INTENT

The NH Retirement System has stated that this bill violates Part 1, Article 36-a of the NH Constitution, which requires that employers (cities and towns) pay contributions to the System as certified by the board of trustees. This bill would adjust the rates certified on July 1, 2011 retroactively, which violates this article, and is therefore unconstitutional. Further, the bill takes more money from the NHRS at a time when this legislature's stated objective has been to reduce the \$4-plus billion unfunded liability created in the 1990's. The minority believes that this bill would continue the practice of "kicking the can down the road" by irresponsibly spending money stolen from the NHRS, and leaving the System deeper in debt.

Rep. Daniel J Sullivan
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

SPECIAL COMMITTEE PUBLIC EMPLOYEE PENSIONS REFORM

HB654-FN-L, relative to credit for retirement system employer contribution overpayments.
INEXPEDIENT TO LEGISLATE.

Rep. Daniel J Sullivan for the **Minority** of **SPECIAL COMMITTEE PUBLIC EMPLOYEE PENSIONS REFORM**. The NH Retirement System has stated that this bill violates Part 1, Article 36-a of the NH Constitution, which requires that employers (cities and towns) pay contributions to the System as certified by the board of trustees. This bill would adjust the rates certified on July 1, 2011 retroactively, which violates this article, and is therefore unconstitutional. Further, the bill takes more money from the NHRS at a time when this legislature's stated objective has been to reduce the \$4-plus billion unfunded liability created in the 1990's. The minority believes that this bill would continue the practice of "kicking the can down the road" by irresponsibly spending money stolen from the NHRS, and leaving the System deeper in debt.

Original: House Clerk
Cc: Committee Bill File

(ITL?)

HH654-FN

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Rep. Daniel Sullivan