

Bill as  
Introduced

HB 356 - AS INTRODUCED

2021 SESSION

21-0384  
10/08

HOUSE BILL

**356**

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

SPONSORS: Rep. Long, Hills. 10

COMMITTEE: Executive Departments and Administration

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ANALYSIS

The bill makes administrative changes and clarifications to the employees' contributory retirement system of the city of Manchester, including compliance with the applicable provisions of the Internal Revenue Code and related Treasury regulations, expanding the options available to the system's board whenever an elected trustee become unwilling or incapable of completing their term of election, and other technical changes.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

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

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

1           1   Manchester Employees' Contributory Retirement System; Internal Revenue Code  
2   Qualification. Amend 1973, 218:3 as amended by 2002, 194:1 to read as follows:

3           218:3 Internal Revenue Code Qualification. The retirement system established in this act is  
4   intended to create a tax-qualified governmental retirement plan under sections 401(a) and 414(d) of  
5   the Code as amended. ***The applicable provisions of the retirement system necessary to***  
6   ***comply with all qualification requirements of the Code, the applicable Treasury***  
7   ***Regulations, and other Internal Revenue Service guidance and pronouncements shall be***  
8   ***set forth in this statute and the retirement system administrative rules.***

9           2   Definition; Earnings. Amend 1973, 218:4 as amended by 2002, 194:1 to read as follows:

10           VIII. "Earnings" means the total salary or wages of a member for the member's employment  
11   with the city, including all grants and allowances for maintenance at such figures as may be  
12   determined by the retirement board. For members whose retirement date is after July 1, 1996, and  
13   members who on July 1, 1996 and thereafter terminated city employment and elected to defer their  
14   benefits until their normal retirement date but had not yet reached their normal retirement date,  
15   earnings shall include unused sick time included in the member's salary or wages at the member's  
16   date of termination of city employment. For members whose retirement date is after December 1,  
17   1997, and members who on December 1, 1997 and thereafter terminated city employment and  
18   elected to defer their benefits until their normal retirement date but had not yet reached their  
19   normal retirement date, earnings shall include unused vacation time included in the member's  
20   salary or wages at their date of termination of city employment. ***The determination of earnings***  
21   ***and final average earnings shall at all times be made in accordance with section 415 of the***  
22   ***Code, and the related Treasury Regulations, the applicable provisions of which shall be set***  
23   ***forth in the administrative rules. Beginning January 1, 2009, to the extent required by***  
24   ***sections 401(h) and 414(u)(12) of the Code, any differential wage payments to a member***  
25   ***from an employer (while the individual is performing qualified military service as defined***  
26   ***in Chapter 43 of Title 38, United States Code) shall be treated as compensation for***  
27   ***purposes of applying the limits on annual additions under Code section and for purposes***  
28   ***of determining earnings and final average earnings.***

29           3   Board Vacancy. Amend 1973, 218:5 IV as amended by 2002, 194:1 and 2003, 102:2 to read as  
30   follows:

1 IV. In the event of a vacancy on the retirement board, such vacancy shall be filled in the  
 2 same manner as the member to be succeeded was appointed or elected and for the remainder of the  
 3 unexpired term. Any person who is vacating a trustee position on the board may, if the trustee's  
 4 circumstances permit, continue to represent the membership as a trustee [~~for a period not to exceed~~  
 5 ~~6 months~~] ***until the next regularly scheduled trustee election***, or, until a successor is appointed  
 6 or elected, whichever period is shortest. ***In the event that an elected trustee is unwilling or***  
 7 ***incapable of completing the year in which they cease to be a member, the retirement board***  
 8 ***may appoint an individual, as defined in section 5, paragraph I, to complete the calendar***  
 9 ***year.***

10 4 Contributions by the City; Actuarial Assumptions. Amend 1973, 218:8 as amended by 2002,  
 11 194:1 to read as follows:

12 218:8 Contributions by the City. The city shall appropriate annually to the retirement board the  
 13 amounts required to fund the benefits set forth in the act as determined by the retirement board on  
 14 the basis of an actuary's valuation, which shall be based on sound actuarial funding methods,  
 15 assumptions, and principles. ***The actuarial assumptions used by the actuary shall be in***  
 16 ***conformity with the requirements of the Code and the related Treasury Regulations and***  
 17 ***shall be set forth in the administrative rules.***

18 5 Retirement Benefits; Payments. Amend 1973, 218:12 IV as amended by 2002, 194:1 and 2006,  
 19 115:1 to read as follows:

20 IV. Notwithstanding any provision of this act, the maximum pension payment payable to  
 21 any member or beneficiary shall be limited to such extent as may be necessary to comply with the  
 22 requirements of sections 401(a)(16), 401(a)(17) and 415 of the Code. The retirement benefits payable  
 23 hereunder shall be made in the form, at such time and otherwise in compliance with the distribution  
 24 and rollover requirements of sections 402(c), 401(a)(9), and 401(a)(31) of the Code ***and the related***  
 25 ***Treasury Regulations the applicable provisions of which shall be set forth in the***  
 26 ***administrative rules.*** Member contributions and benefit upgrade purchases shall be made in  
 27 conformity with section 415 of the Code ***and the related Treasury Regulations the applicable***  
 28 ***provisions of which shall be set forth in the administrative rules.***

29 6 New Paragraph; Benefits Upon Death of a Member. Amend 1973, 218:16 as amended by 2002,  
 30 194:1 by inserting after paragraph III the following new paragraph:

31 IV. Death During Military Service. Effective with respect to deaths occurring on or after  
 32 January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43  
 33 of Title 38, United States Code), death benefits shall be provided to the survivors of a member to the  
 34 extent required by section 401(a)(37) of the Code.

35 7 Review of Retirement Board Orders; Time. Amend 1973, 218:26, I as amended by 2002, 194:1  
 36 to read as follows:

HB 356 - AS INTRODUCED

- Page 3 -

1 I. Any member aggrieved by a decision of the retirement board denying the benefits  
2 provided by this act may request a hearing by filing a written petition no later than 45 days after the  
3 date of the decision. The petition shall include the name and address of the member, the denial of  
4 benefits being contested, legal basis on which the denial is being contested, and any documentation  
5 or exhibits which support the member's position. The retirement board shall grant or deny the  
6 hearing request [~~within 14 days of the member's request~~] *at its next scheduled meeting*. The  
7 rules and procedures for all hearings shall be set forth in the administrative rules.

8 8 Medical Insurance Coverage. Amend 1973, 218:28, II as amended by 2002, 194:1 to read as  
9 follows:

10 II. Member contributions toward this subsidy shall be funded by an increase in the member  
11 contribution rate established pursuant to section 218:9, I by 1.25 percent. [~~Under no circumstances~~  
12 ~~shall a member be entitled to a refund of contributions made to the Section 401(h) subtrust.~~]  
13 Notwithstanding any other provisions of chapter 218 to the contrary, members shall not be entitled  
14 to a refund of contributions made to the Section 401(h) subtrust. The city shall fund the remaining  
15 cost of funding the 401(h) subtrust based on methods and assumptions determined by the board.  
16 Any contribution made by the city intended to fund the 401(h) subtrust shall be so designated. Any  
17 transfers of retirement system assets to the 401(h) subtrust shall be limited to excess assets as  
18 defined in Internal Revenue Code Section 420(e)(2). All such transfers must be made in accordance  
19 with Internal Revenue Code Section 420 and all applicable Treasury regulations.

20 9 Effective Date. This act shall take effect upon its passage.

CHAPTER 40  
HB 356 - FINAL VERSION

9Apr2021... 1140EBA

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ANALYSIS

The bill makes administrative changes and clarifications to the employees' contributory retirement system of the city of Manchester, including compliance with the applicable provisions of the Internal Revenue Code and related Treasury regulations, expanding the options available to the system's board whenever an elected trustee become unwilling or incapable of completing their term of election, and other technical changes.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

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

1 40:1 Manchester Employees' Contributory Retirement System; Internal Revenue Code  
2 Qualification. Amend 1973, 218:3 as amended by 2002, 194:1 to read as follows:

3 218:3 Internal Revenue Code Qualification. The retirement system established in this act is  
4 intended to create a tax-qualified governmental retirement plan under sections 401(a) and 414(d) of  
5 the Code as amended. *The applicable provisions of the retirement system necessary to*  
6 *comply with all qualification requirements of the Code, the applicable Treasury*  
7 *Regulations, and other Internal Revenue Service guidance and pronouncements shall be*  
8 *set forth in this statute and the retirement system administrative rules.*

9 40:2 Definition; Earnings. Amend 1973, 218:4, VIII as amended by 2002, 194:1 to read as  
10 follows:

11 VIII. "Earnings" means the total salary or wages of a member for the member's employment  
12 with the city, including all grants and allowances for maintenance at such figures as may be  
13 determined by the retirement board. For members whose retirement date is after July 1, 1996, and  
14 members who on July 1, 1996 and thereafter terminated city employment and elected to defer their  
15 benefits until their normal retirement date but had not yet reached their normal retirement date,  
16 earnings shall include unused sick time included in the member's salary or wages at the member's  
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18 1997, and members who on December 1, 1997 and thereafter terminated city employment and  
19 elected to defer their benefits until their normal retirement date but had not yet reached their  
20 normal retirement date, earnings shall include unused vacation time included in the member's  
21 salary or wages at their date of termination of city employment. *The determination of earnings*  
22 *and final average earnings shall at all times be made in accordance with section 415 of the*  
23 *Code, and the related Treasury Regulations, the applicable provisions of which shall be set*  
24 *forth in the administrative rules. Beginning January 1, 2009, to the extent required by*  
25 *sections 401(h) and 414(u)(12) of the Code, any differential wage payments to a member*  
26 *from an employer (while the individual is performing qualified military service as defined*  
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28 *purposes of applying the limits on annual additions under Code section and for purposes*  
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CHAPTER 40  
HB 356 - FINAL VERSION

- Page 2 -

1 40:3 Board Vacancy. Amend 1973, 218:5, IV as amended by 2002, 194:1 and 2003, 102:2 to read  
2 as follows:

3 IV. In the event of a vacancy on the retirement board, such vacancy shall be filled in the  
4 same manner as the member to be succeeded was appointed or elected and for the remainder of the  
5 unexpired term. Any person who is vacating a trustee position on the board may, if the trustee's  
6 circumstances permit, continue to represent the membership as a trustee ~~[for a period not to exceed~~  
7 ~~6 months]~~ ***until the next regularly scheduled trustee election***, or, until a successor is appointed  
8 or elected, whichever period is shortest. ***In the event that an elected trustee is unwilling or***  
9 ***incapable of completing the year in which they cease to be a member, the retirement board***  
10 ***may appoint an individual, as defined in section 5, paragraph I, to complete the calendar***  
11 ***year.***

12 40:4 Contributions by the City; Actuarial Assumptions. Amend 1973, 218:8 as amended by  
13 2002, 194:1 to read as follows:

14 218:8 Contributions by the City. The city shall appropriate annually to the retirement board the  
15 amounts required to fund the benefits set forth in the act as determined by the retirement board on  
16 the basis of an actuary's valuation, which shall be based on sound actuarial funding methods,  
17 assumptions, and principles. ***The actuarial assumptions used by the actuary shall be in***  
18 ***conformity with the requirements of the Code and the related Treasury Regulations and***  
19 ***shall be set forth in the administrative rules.***

20 40:5 Retirement Benefits; Payments. Amend 1973, 218:12, IV as amended by 2002, 194:1 and  
21 2006, 115:1 to read as follows:

22 IV. Notwithstanding any provision of this act, the maximum pension payment payable to  
23 any member or beneficiary shall be limited to such extent as may be necessary to comply with the  
24 requirements of sections 401(a)(16), 401(a)(17) and 415 of the Code. The retirement benefits payable  
25 hereunder shall be made in the form, at such time and otherwise in compliance with the distribution  
26 and rollover requirements of sections 402(c), 401(a)(9), and 401(a)(31) of the Code ***and the related***  
27 ***Treasury Regulations the applicable provisions of which shall be set forth in the***  
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29 conformity with section 415 of the Code ***and the related Treasury Regulations the applicable***  
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32 2002, 194:1 by inserting after paragraph III the following new paragraph:

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36 extent required by section 401(a)(37) of the Code.



**CHAPTER 40**  
**HB 356 - FINAL VERSION**  
**- Page 3 -**

1       40:7 Review of Retirement Board Orders; Time. Amend 1973, 218:26, I as amended by 2002,  
2 194:1 to read as follows:

3           I. Any member aggrieved by a decision of the retirement board denying the benefits  
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5 date of the decision. The petition shall include the name and address of the member, the denial of  
6 benefits being contested, legal basis on which the denial is being contested, and any documentation  
7 or exhibits which support the member's position. The retirement board shall grant or deny the  
8 hearing request [~~within 14 days of the member's request~~] **at its next scheduled meeting**. The  
9 rules and procedures for all hearings shall be set forth in the administrative rules.

10       40:8 Medical Insurance Coverage. Amend 1973, 218:28, II, as amended by 2005, 41:1, to read as  
11 follows:

12           II. Member contributions toward this subsidy shall be funded by an increase in the member  
13 contribution rate established pursuant to section 218:9, I by 1.25 percent. [~~Under no circumstances~~  
14 ~~shall a member be entitled to a refund of contributions made to the Section 401(h) subtrust.~~]  
15 Notwithstanding any other provisions of chapter 218 to the contrary, members shall not be entitled  
16 to a refund of contributions made to the Section 401(h) subtrust. The city shall fund the remaining  
17 cost of funding the 401(h) subtrust based on methods and assumptions determined by the board.  
18 Any contribution made by the city intended to fund the 401(h) subtrust shall be so designated. Any  
19 transfers of retirement system assets to the 401(h) subtrust shall be limited to excess assets as  
20 defined in Internal Revenue Code Section 420(e)(2). All such transfers must be made in accordance  
21 with Internal Revenue Code Section 420 and all applicable Treasury regulations.

      40:9 Effective Date. This act shall take effect upon its passage.

Approved: May 17, 2021  
Effective Date: May 17, 2021

# Committee Minutes

# SENATE CALENDAR NOTICE

## Executive Departments and Administration

Sen Sharon Carson, Chair  
Sen John Reagan, Vice Chair  
Sen Denise Ricciardi, Member  
Sen Kevin Cavanaugh, Member  
Sen Suzanne Prentiss, Member

Date: March 17, 2021

### HEARINGS

Wednesday	03/24/2021	
(Day)	(Date)	
Executive Departments and Administration	REMOTE 000	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m.	<b>HB 117</b>	relative to the use of force at New Hampshire national guard facilities.
9:15 a.m.	<b>HB 377</b>	relative to the authority of the state fire marshal to grant an exemption from fire code requirements to recovery houses.
9:30 a.m.	<b>HB 356</b>	relative to the city of Manchester employees' contributory retirement system.
9:45 a.m.	<b>HB 318</b>	proclaiming the daring jumping spider to be the state spider of New Hampshire.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/97478051865>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: +13017158592,,97478051865# or +13126266799,,97478051865#
4. Webinar ID: **974 7805 1865**
5. To view/listen to this hearing on YouTube, use this link:  
<https://www.youtube.com/channel/UCjBZdtriRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link:  
<http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: [remotesenate@leg.state.nh.us](mailto:remotesenate@leg.state.nh.us) or call (603-271-6931).

**EXECUTIVE SESSION MAY FOLLOW**

**Sponsors:**

**HB 117**

Rep. Graham

Sen. Giuda

**HB 377**

Rep. Connors

Rep. Cornell

Rep. Goley

Rep. Snow

Sen. D'Allesandro

**HB 356**

Rep. Long

**HB 318**

Rep. McGhee

Cameron Lapine 271-2104

Sharon M Carson  
Chairman

# Senate Executive Departments and Administration Committee

*Cameron Lapine 271-2104*

**HB 356**, relative to the city of Manchester employees' contributory retirement system.

**Hearing Date:** March 24, 2021

**Time Opened:** 9:56 a.m.

**Time Closed:** 10:02 a.m.

**Members of the Committee Present:** Senators Carson, Reagan, Cavanaugh and Prentiss

**Members of the Committee Absent:** Senator Ricciardi

**Bill Analysis:** The bill makes administrative changes and clarifications to the employees' contributory retirement system of the city of Manchester, including compliance with the applicable provisions of the Internal Revenue Code and related Treasury regulations, expanding the options available to the system's board whenever an elected trustee become unwilling or incapable of completing their term of election, and other technical changes.

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**Sponsors:**

Rep. Long

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**Who supports the bill:** Representative Carol McGuire (Merrimack – District 29), Representative Pat Long (Hillsborough – District 10), and Gerard Fleury.

**Who opposes the bill:** None.

**Who is neutral on the bill:** None.

**Summary of testimony presented in support:**

**Representative Pat Long**

**Hillsborough – District 10**

- Representative Long said that HB 356 came about through the recently retired Executive Director of the Manchester Employees' Contributory Retirement System (the System), Gerard Fleury.
- Rep. Long said that any changes made to the System need to be approved by the General Court in order to retain their tax-exempt status.

- Rep. Long said that the changes in HB 356 are administrative changes, dealing with the selection of replacement trustees and technical changes to the way the plan satisfies its obligations under federal tax law.

**Representative Carol McGuire**

**Merrimack – District 29**

- Representative McGuire echoed Rep. Long’s comments.
- Rep. McGuire said that allowing the System to adopt the updated versions of Internal Revenue Service (IRS) codes through administrative rules, rather than the General Court, would save costs, save time, and save trouble.

**Gerard Fleury**

**Former Executive Director, Manchester Employees’ Contributory Retirement System**

- Senator Cavanaugh asked about the language on Page 3, Lines 11 and 12 of HB 356, regarding the refunding of contributions.
  - Mr. Fleury said that the language was a reflection of what was needed in order to comply with federal regulations. He said that the medical subtrust exists with the understanding that contributions become the property of the City and employees are entitled to collect a subsidy in retirement but that is forfeited if the employee leaves before retirement. Mr. Fleury said that the language was needed to comply with IRS regulations.
- Mr. Fleury said that William Shea is the new Executive Director of the System.
- Mr. Fleury said that the first element of HB 356 dealt with how to replace members of the Board of Trustees when they cannot complete their term. He said the existing language was unclear if the Board could appoint a temporary member or if the seat had to be vacant until a new election can be held. He said that HB 356 allows the Board to appoint a new member until the next regularly scheduled election.
- Mr. Fleury said that the second element of HB 356 ensured that the System can keep up with changes to the IRS code and maintain their status as a qualified plan, preserving the tax-exempt status of the fund, without having to find a legislator to sponsor a bill and then have the bill pass through the General Court and be signed by the Governor.
- Mr. Fleury said that legal counsel for the System worked with the IRS on drafting HB 356.

**Summary of testimony presented in opposition:** None.

**Neutral Information Presented:** None.



# Speakers



## Senate Remote Testify

### Executive Departments and Administration Committee Testify List for Bill HB356 of

Support: 2 Oppose: 0 Neutral: 0 Total to Testify: 2

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>
McGuire, Carol	Not Given	Not Given	An Elected Official	Merrimack 29	Support	Yes
Long, Pat	long55@comcast.net	16032033232	An Elected Official	Hillsborough District 10	Support	Yes

# Testimony

## **Cameron Lapine**

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**From:** Hanks, Helen <Helen.E.Hanks@doc.nh.gov>  
**Sent:** Wednesday, April 14, 2021 11:31 AM  
**To:** Sharon Carson; John Reagan; Kevin Cavanaugh; Denise Ricciardi; Suzanne Prentiss; Cameron Lapine  
**Subject:** HB 456 - NH RSA 651:63

Dear Honorable Members of the Committee,

Thank you for your time this morning. I did want to also share with you the statute I referenced regarding restitution collection requirements we are statutorily required to fulfill:

# **TITLE LXII CRIMINAL CODE**

## **CHAPTER 651 SENTENCES**

### **Restitution**

#### **Section 651:63**

##### **651:63 Restitution Authorized. –**

- I. Any offender may be sentenced to make restitution in an amount determined by the court. In any case in which restitution is not ordered, the court shall state its reasons therefor on the record or in its sentencing order. Restitution may be ordered regardless of the offender's ability to pay and regardless of the availability of other compensation; however, restitution is not intended to compensate the victim more than once for the same injury. A restitution order is not a civil judgment.
- II. Restitution ordered shall be in addition to any other penalty or fine and may be a condition of probation or parole. Restitution, if ordered, may also be a condition of any work release program administered under RSA 651:19 or RSA 651:25.
- III. The making of a restitution order shall not affect the right of a victim to compensation under RSA 21-M:8-h, except to the extent that restitution is actually collected pursuant to the order. The offender shall reimburse the victims' assistance fund for any payments made by the fund to the victim pursuant to RSA 21-M:8-h after the restitution order is satisfied. Refused or unclaimed restitution payments shall be made to the victims' assistance fund.
- IV. The court's determination of the amount of restitution shall not be admissible as evidence in a civil action. The court shall reduce any civil damage awards by restitution ordered and paid to the victim. Restitution orders shall survive bankruptcy.
- V. When restitution is ordered to be paid through the department of corrections, division of field services, the court shall add 17 percent to the total restitution payment as an administrative fee to be paid by the offender. Such administrative fee shall be divided into the following components, to be designated as follows: 15 percent shall be continually appropriated to a special fund for the division of field services, department of corrections, \$22,500 of which shall lapse to the general fund at the end of each quarter should that amount be received, to

maximize restitution collections, directly or through agents of contractors selected by the department; and 2 percent for the victims' assistance fund. Unexpended account balances in the special fund for the division of field services in excess of \$50,000 at the end of the fiscal year shall lapse to the general fund. Administrative fees shall be paid by the offender in addition to and when each restitution payment is made.

VI. Restitution, administrative fines and fees, and other fees collected, except for supervision fees pursuant to RSA 504-A:13, shall be allocated on a pro-rata basis by the commissioner of corrections or his or her designee when payments are insufficient to cover the full amount due for each of these balances, except that restitution to victims shall have priority over all other allocations.

VII. On or before July 1, 1997, and each year thereafter until July 1, 2000, the division of field services, department of corrections, shall submit an annual budget plan to the joint legislative fiscal committee. The division of field services, department of corrections, shall have the authority to hire temporary personnel and to procure equipment and expend relevant operating expenses as may be necessary to implement this chapter.

**Source.** 1981, 329:2. 1996, 286:7. 1999, 261:6. 2008, 120:33, eff. Aug. 2, 2008. 2018, 114:1, eff. July 24, 2018.

I thank you for your consideration on this bill.

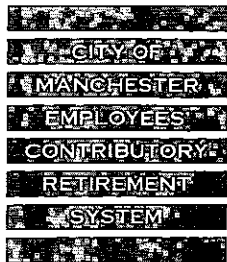
Respectfully,

*Helen E. Hanks, MM.*  
New Hampshire Department of Corrections  
Commissioner  
PO Box 1806  
Concord, NH 03302  
(Tel.) 603-271-5603  
(Fax) 888-908-6609



**NH Department of Corrections**

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March 11, 2021

Sharon Carson – Chairman  
Senate Executive Departments & Administration  
State House Room 106  
107 North Main Street  
Concord, NH 03301

Dear Chairman Carson & Members of the ED&A Committee

I am writing at the direction of the Board of Trustees of the Manchester Employees' Contributory Retirement System, (MECRS) to seek your support on HB 356 which is before your Committee.

In the 2020 session, there was a similar bill designated HB 1293, which made it through Committee with an "Ought to Pass". When COVID-19 brought the session to a halt, the bill was tabled so we sought reintroduction in the 2021 session.

HB 356 is purely administrative in nature and provides a means by which a trustee could be appointed to fill an unexpired term in the event that an elected trustee is unable or unwilling to complete an elected term of office. That same bill also contains technical changes to clarify the way in which our retirement plan satisfies its obligations under Federal Tax Law, in order to maintain the qualified tax status it has enjoyed since the Plan was established back in 1974.

Yours Truly,

William Shea – Executive Director  
Manchester Employees' Contributory Retirement System

[WShea@ManchesterRetirement.org](mailto:WShea@ManchesterRetirement.org)

cc: MECRS Board of Trustees



February 2, 2021

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

In Board of Mayor and Aldermen  
Date: 2/2/2021  
On motion of Ald. Sapienza  
Seconded by Ald. Roy  
Voted to support HB 211-FN and  
HB 356.

*Matthew Hammond*  
City Clerk

Honorable Members:

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

I am writing at the direction of the Board of Trustees of the Manchester Employees' Contributory Retirement System, (MECRS) to seek your support for a pair of legislative initiatives which were introduced but because of the COVID pandemic, not enacted in the 2020 session of the New Hampshire Legislature.

In the last session, these bills were identified as HB 1292 and HB 1293, which made it as far as House Committee hearings where they designated as "Ought to Pass". I had come before you in December of 2019 to seek your support for both measures, which you agreed to do. Because of the importance of these measures to the MECRS and to the City, I am writing again seeking your continued support for the reintroduced versions in the 2021 session of the Legislature, where they have been designated as HB 211-FN and HB 356 respectively.

As we stated last time, the Trustees have been carefully considering ways to enhance the financial strength of the MECRS while carefully balancing the future contribution obligations of employees and the City. After years of study, discussion and deliberation, with input from all of its professional advisors, the Board drafted legislation to accomplish these goals without significantly changing the MECRS or the employee financial burden. The Board is mindful that the MECRS is critical in helping the City attract and retain qualified employees. The four changes being sought by the first bill, HB 211-FN, which will only apply to those hired after passage of the legislation, will raise the normal retirement age from 60 to 62, increase employee pension contributions by 2 percent, reset the pension reduction factor to normal actuarial standards for those employees who elect to retire early, and base pension benefits on the average compensation earned over the employee's last five years rather than the current three years. The Board unanimously voted to enact these changes to strengthen the future financial security of the MECRS. It is expected that these changes will gradually increase the funded percentage of the MECRS over time and accelerate the amortization of the unfunded accrued liability by a year, saving the City \$14.8 million in the last year. As you may know, cities throughout the country are facing enormous financial challenges to fund and maintain their employee pension plans. The Board believes that by acting

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

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prudently and proactively now, the future prospects for the continued and enhanced financial strength of the MECRS can be significantly bolstered.

During the NH House's review of this measure last year, the Committee of Executive Departments & Administration, who heard the bill, added clarifying amendments to its structure. The MECRS had no issue with those amendments and they were incorporated into this year's bill.

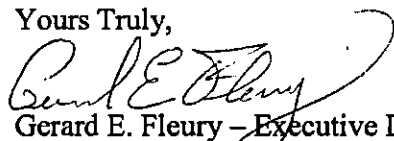
The second piece of legislation, HB 356, is purely administrative in nature and addresses how a replacement trustee is selected in the event that a trustee is unable or unwilling to complete an elected term of office. That same bill also contains technical changes to clarify the way in which our retirement plan satisfies its obligations under Federal Tax Law, in order to maintain the qualified tax status it has enjoyed since the Plan was established back in 1974.

We obtained sponsorship from Representative Patrick Long, as we did last year, for this pair of House Bills in the 2021 session of the legislature. Copies of both bills. (HB 211-FN and HB 356) are attached to this letter for your review.

The MECRS Board of Trustees respectfully requests your support of these bills since it will go a long way toward their passage in the House and Senate in the coming months.

In closing, for those of you who are not aware, after serving 17 years as the MECRS Executive Director, I retired on January 31st. After conducting a nationwide search in 2020, the MECRS Board of Trustees hired William Shea as the new Executive Director. I have worked with Bill Shea on the transition during the month of January and I believe the MECRS is in very capable hands.

Yours Truly,



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

cc: MECRS Board of Trustees  
William Shea – Executive Director

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT revising certain benefit provisions in the city of Manchester employees contributory retirement system.

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

1 Manchester Retirement System; Definition; Final Average earnings. Amend 1973, 218:4, X as  
2 amended by 2002, 194:1 to read as follows:

3 X. "Final average earnings" *for members who commenced service before January 1,*  
4 *2022,* means the greater of (a) the average annual earnings received by a member during the 3  
5 highest calendar years during the 10 years preceding the member's normal retirement date, date of  
6 actual retirement or date, of termination of employment, or (b) the average annual earnings received  
7 by a member during the highest 36 consecutive calendar months during the 10 years preceding the  
8 member's normal retirement date, date of actual retirement, or date of termination of employment.  
9 The 3 highest years or highest 36 consecutive months shall be selected by the member, it being the  
10 intent and purpose of this method of computing final average earnings to afford the highest benefits  
11 to the member. If a member has not worked 10 years at the time of the commencement of benefits,  
12 the benefit shall be based upon the earnings during the greater of the highest 36 consecutive months  
13 or the 3 highest calendar years. ~~[This section shall be effective for members whose retirement date~~  
14 ~~is after January 1, 2003.]~~ *For members who commenced service on or after January 1, 2022,*  
15 *"final average earnings" means the greater of (a) the average annual earnings received by*  
16 *a member during the 5 highest calendar years during the 10 years preceding the member's*  
17 *normal retirement date, date of actual retirement, or date of termination of employment, or*  
18 *(b) the average annual earnings received by a member during the highest 60 consecutive*  
19 *calendar months during the 10 years preceding the member's normal retirement date, date*  
20 *of actual retirement, or date of termination of employment. The 5 highest years or highest*  
21 *60 consecutive months shall be selected by the member, it being the intent and purpose of*  
22 *this method of computing final average earnings to afford the highest benefits to the*  
23 *member. If a member has not worked 10 years at the time of the commencement of benefits,*  
24 *the benefit shall be based upon the earnings during the greater of the highest 60*  
25 *consecutive months or the 5 highest calendar years.*

26 2 Definitions; Normal Retirement Date. Amend 1973, 218:4, XIII as amended by 2002, 194:1  
27 and 2002, 147:4 to read as follows:

28 XIII. "Normal retirement date" shall mean the first day of the month coinciding with or next  
29 following a member's sixtieth birthday *for members who commenced service before January 1,*



1 *2022, otherwise the first day of the month coinciding with or next following a member's*  
2 *sixty-second birthday.*

3 3 Employees to Whom the Act Applies. Amend 1973, 218:7, III as amended by 2002, 194:1 and  
4 2008, 90:3 to read as follows:

5 III. Any eligible employee in the employment of the city on January 1, 1974, who elected not  
6 to participate shall only be admitted to the retirement system upon completion of an application for  
7 participation, majority consent of the retirement board, passing a prescribed physical examination,  
8 and completion of a service buyback. *Any such eligible employee who elects to participate*  
9 *subsequent to January 1, 2022 shall participate under the retirement system statutory*  
10 *provisions in effect for members who commenced service as of that date.*

11 4 Contributions by Employees. Amend 1973, 218:9, I as amended by 2002, 194:1 to read as  
12 follows:

13 I. The rate of contributions by each member *who commenced service prior to January 1,*  
14 *2022 shall be 3.75 percent of that portion of earnings received during each calendar year or portion*  
15 *thereof; otherwise the rate of contributions shall be 5.75 percent and continuing until such*  
16 *time as the board of trustees certify to the executive director on the basis of an actuary's*  
17 *valuation, which shall be based on sound actuarial funding methods, assumptions and*  
18 *principals that the actuarial funded ratio of the Manchester's employees' contributory*  
19 *retirement system has reached a 100 percent funding level. The contribution rate shall*  
20 *return to 3.75 percent as of the start of the City's fiscal year immediately following the*  
21 *board of trustee's certification of the 100 percent funding level.*

22 5 Service Buybacks. Amend 1973, 218:10, III, as amended by 2002, 194:1 and 2006, 115:4, to  
23 read as follows:

24 III. A member who ceases to be a member, withdraws his or her member contributions  
25 pursuant to section 11 of this act, and later becomes a member again, may make a request after the  
26 member's return to city employment for service buyback of prior service credit for the previous time  
27 served as a member. If a service buyback is not made, the member's benefit shall be based solely on  
28 the member's years of service and final average earnings after the break in service. *For former*  
29 *members who return to service on or after January 1, 2022, the cost of the buyback shall be*  
30 *determined by dividing the value of refunded contributions by the contribution rate in*  
31 *effect during their withdrawn period of service, multiplying the results by the contribution*  
32 *rate in effect under paragraph I of section 9, and then applying interest at the rate in effect*  
33 *as determined by the board. Members who withdrew more than 5 years of service earned*  
34 *prior to January 1, 2022, who return to service on or after January 1, 2022 shall pay*  
35 *member contributions at the contribution rate in effect under paragraph I of section 9 for*  
36 *other new hires, however, the returning member shall retain his or her original normal*  
37 *retirement age of 60, and will have their earnings averaged over 3 years for benefit*

1 *calculation purposes. Former members who return to service on or after January 1, 2022*  
 2 *who withdrew with less than 5 years of service earned prior to January 1, 2022 shall be*  
 3 *subject to the 5-year earnings average and a normal retirement age of 62.*

4 6 Retirement Benefits Amend 1973, 218:12, I, as amended by 2002, 147:5 and 2002, 194:1 to  
 5 read as follows:

6 I. Any member *who commenced service prior to January 1, 2022*, who either has  
 7 attained the age of 60 years or having been in the service of the city on January 1, 1974, has  
 8 completed at least 20 years of service, shall be eligible for a normal retirement benefit under the  
 9 provisions of this act. *Any member who commenced service on or after January 1, 2022, who*  
 10 *has attained the age of 62 years, shall be eligible for a normal retirement benefit under the*  
 11 *provisions of this act.* Any such member may retire by filing with the retirement board a written  
 12 statement duly attested setting forth at what time subsequent to the date of filing thereof, the  
 13 member desires to be retired, or the retirement board may, at its option, retire any such eligible  
 14 member, furnishing written notice thereof at least 60 calendar days in advance of the specified date  
 15 of such retirement.

16 7 Rehires. Amend 1973, 218:12, III, as amended by 2002, 194:1 to read as follows:

17 III. The retirement system shall not pay retirement or disability benefits to city employees  
 18 who again become eligible to participate in the retirement system under the act. A member shall  
 19 notify the retirement system of the member's rehire immediately. Upon rehire after a period of  
 20 termination, all disbursements under the plan to that member shall cease and the member shall  
 21 resume making contributions to the retirement fund *at the contribution rate in effect at*  
 22 *resumption of city service* as of the first pay period following the member's rehire. Rehired  
 23 members shall have their benefits determined in accordance with section 13 of this act.

24 8 Normal Retirement; Pension Payable. Amend the introductory paragraph of 1973, 218:12, V,  
 25 as amended by 2002, 194:1 to read as follows:

26 V. Members who qualify for a normal retirement benefit shall receive an annual pension  
 27 payable during the member's lifetime *and determined by the member's initial commencement*  
 28 *of service date*, in an amount equal to the sum of:

29 9 Restoration to Service Benefits. Amend 1973, 218:13, as amended by 2002, 194:1 to read as  
 30 follows:

31 218:13 Restoration to Service Benefits.

32 I. If a formerly disabled member or any other member who has commenced receiving  
 33 benefits from the retirement system again becomes eligible to participate, the member's benefits  
 34 shall cease. The member shall resume making contributions to the retirement fund *at the*  
 35 *contribution rate in effect at resumption of city service* and the member shall become eligible  
 36 to receive a normal retirement benefit determined in accordance with this section.

1 II. A member whose benefit is governed by this section shall receive a normal retirement  
 2 benefit equal to the sum of (a) the benefit calculated based on years of service and final average  
 3 earnings prior to the ~~[break-in]~~ **resumption of service** and (b) the benefit calculated based on years  
 4 of service and final average earnings after the ~~[break-in]~~ **resumption of service**. If a member has  
 5 less than ~~[3-years-of-service]~~ **the required number of years used to calculate final average**  
 6 **earnings under the retirement system statutory provisions in effect at the member's initial**  
 7 **date of hire** after the break in service, the member's benefit after the break in service shall be based  
 8 upon the earnings of the member for all weeks of service until the retirement date, divided by the  
 9 number of weeks of service and multiplied by 52.

10 10 Early Retirement Option. Amend 1973, 218:14, I, as amended by 2002, 147:6 and 2002,  
 11 194:1 to read as follows:

12 I. Each member **who commenced service before January 1, 2022**, whose age plus years  
 13 of service equal 80, or who attains age 55 with a minimum of 20 years of service, may have the  
 14 option, to be exercised by a written notice to the retirement board, to retire at any time thereafter,  
 15 prior to the member's normal retirement date. The amount of retirement benefits payable to such  
 16 retired member shall be computed as provided in section 12 of this act, except that the date of such  
 17 early retirement shall be used in determining the member's service, and the amount thus obtained  
 18 will be reduced for each month by which the date on which benefits commence precedes the month  
 19 after which the member attains 60 years of age by 1/6 of one percent. **Each member who**  
 20 **commenced service on or after January 1, 2022, whose age plus years of service equal 80, or**  
 21 **who attains age 55 with a minimum of 20 years of service, may have the option, to be**  
 22 **exercised by a written notice to the retirement board, to retire at any time thereafter, prior**  
 23 **to the member's normal retirement date. The amount of retirement benefits payable to**  
 24 **such retired member shall be computed as provided in section 12 of this act, except that the**  
 25 **date of such early retirement shall be used in determining the member's service, and the**  
 26 **amount thus obtained will be reduced for each month by which the date on which benefits**  
 27 **commence precedes the month after which the member attains 62 years of age by 7/12 of one**  
 28 **percent.**

29 11 Disability Benefits. Amend 1973, 218:15, III, as amended by 2002, 194:1 to read as follows:

30 III. If such total disability is shown, to the satisfaction of the retirement board, to have been  
 31 sustained during the performance of duties pertaining to the member's employment by the city, the  
 32 member shall be entitled to retirement for disability irrespective of the duration of employment. In  
 33 order for a member to receive disability benefits under this section, the member shall submit an  
 34 application for disability benefits within 60 days of termination of employment. However, any  
 35 member receiving a disability benefit on account of total and permanent disability sustained during  
 36 the performance of duties pertaining to employment by the city, as provided herein, shall receive a  
 37 benefit equal to the greater of the sum of the amounts determined in accordance with (a) and (b) of

1 paragraph II, or 50 percent of final average earnings. If a member *commenced service prior to*  
 2 *January 1, 2022 and* has less than 3 years of service at the time of becoming totally disabled in the  
 3 performance of duties pertaining to the member's employment by the city, the member's pension  
 4 shall be based upon the member's annualized disability earnings. *If a member commenced*  
 5 *service on or after January 1, 2022 and has less than 5 years of service at the time of*  
 6 *becoming totally disabled in the performance of duties pertaining to the member's*  
 7 *employment by the city, the member's pension shall be based upon the member's annualized*  
 8 *disability earnings.* The disabled member may also receive his or her disability benefit in the form  
 9 of a contingent annuity as described in section 17.

10 12 Accidental Death Benefits. Amend 1973, 218:16, I(a), as amended by 2002, 194:1; 2003, 16:1;  
 11 and 2011, 21:1 to read as follows:

12 (a) If, upon the receipt by the board of trustees of proper proof of the death of a member  
 13 in service indicating that such death was the natural and proximate result of an accident occurring  
 14 while in the performance of duty at some definite time and place, the board decides that death was  
 15 the result of an accident in the performance of duty and not caused by the member's own gross  
 16 negligence, recklessness, or willful misconduct, the member's surviving spouse shall be entitled to  
 17 the larger of an annual benefit equal to 50 percent of the member's final average earnings paid in  
 18 equal monthly installments or a monthly benefit computed according to the member's creditable  
 19 service and final average earnings for the 100 percent contingent annuitant option inclusive of the  
 20 early retirement reduction *set forth in section 14 of this act* [~~of 2 percent per year~~] *which*  
 21 *corresponds with the member's service commencement date*, for each year prior to member's  
 22 normal retirement age. In lieu of either option, the member's surviving spouse may instead elect a  
 23 lump sum payment as described in paragraph I(c).

24 13 Ordinary Death Benefits. Amend 1973, 218:16, II(b) and (c), as amended by 2002, 194:1;  
 25 2003, 16:1; and 2011, 21:1 to read as follows:

26 (b) If at the time of death, the member has at least 5 years of creditable service or  
 27 qualifies to retire under the retirement provisions of section 12 or section 14 of this act, and has a  
 28 spouse, the member's spouse shall be entitled to receive a monthly lifetime benefit equal to the  
 29 greater of either 50 percent of the service retirement benefit straight life option without reduction  
 30 that would have been payable to the member had they been eligible to retire immediately prior to  
 31 death based upon final average earnings and creditable service or, a monthly benefit computed  
 32 according to the member's creditable service and final average earnings for the 100 percent  
 33 contingent annuitant option inclusive of the early retirement reduction of 2 percent per year for each  
 34 year prior to the member's normal retirement age *for members who commenced service prior to*  
 35 *January 1, 2022, otherwise 7 percent per year for each year prior to the member's normal*  
 36 *retirement age.* In lieu of either option, the surviving spouse may instead elect a lump sum equal  
 37 to the deceased member's annual base salary at the time of death, in addition to a refund of the

1 member's contributions plus regular interest until date of payment as provided under section 11,  
2 paragraph I.

3 (c) If at the time of death, the member *commenced service prior to January 1, 2022*,  
4 *and* has at least 5 years of creditable service or qualifies to retire under the retirement provisions of  
5 section 12 or section 14 of this act, but is not survived by a spouse, and has designated his or her  
6 child or children under age 18 as his or her beneficiary or beneficiaries, there shall be payable  
7 divided in such manner as the board in its discretion shall determine, to continue for the benefit of  
8 such child or children under said age until every child dies or attains age 18, the greater of either 50  
9 percent of the service retirement benefit straight life option without reduction that would have been  
10 payable to the member had they been eligible to retire immediately prior to death based upon final  
11 average earnings and creditable service or, a monthly benefit computed according to the member's  
12 creditable service and final average earnings for the 100 percent contingent annuitant option  
13 inclusive of the early retirement reduction of 2 percent per year for each year prior to member's  
14 normal retirement age *for members who commenced service prior to January 1, 2022*,  
15 *otherwise 7 percent per year*, or, a lump sum equal to the deceased member's annual base salary  
16 at the time of death, in addition to a refund of contributions plus regular interest until the date of  
17 payment as provided under section 11, paragraph I.

18 14 Effective Date. This act shall take effect January 1, 2022.

**HB 211-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT revising certain benefit provisions in the city of Manchester employees contributory retirement system.

FISCAL IMPACT:     State             County             Local             None

LOCAL:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease

**METHODOLOGY:**

The Manchester Employees' Contributory Retirement System states this bill will reallocate the future cost of operating Manchester's locally controlled and funded employee retirement plan between prospective plan participants and the employer. There will be no fiscal impact on state, county or other local revenue or expenditures.

The proposed changes will only apply to those participants who commence service on or after January 1, 2022 and will not impact any existing plan participants. Proposed changes include the following:

- Normal retirement age will increase from 60 to 62;
- Early retirement reduction changes from 1/6 of 1% per month before normal retirement age to 7/12 of 1%;
- Final Average Earnings 3 year period will increase to 5 years;
- Member contribution rate will increase from 5% to 7%

The reduction in future benefit entitlements will improve the funded ratio of the system and accelerate the accrued liability amortization period by approximately one year, resulting in a projected savings of 3.1% of payroll over the next 20 years, reflecting the reduction in the employer normal cost. The estimates for these calculations are provided from an actuarial report dated September 7, 2018 and based on a valuation as of December 31, 2017, with the following assumptions: rate of return is 7.00%, wage inflation of 2.75%, payroll growth of 2.75%, with a level percent of payroll, 22 year (remaining) closed valuation period, and individual entry age cost method.

**AGENCIES CONTACTED:**

Manchester Employees' Contributory Retirement System

HB 356 - AS INTRODUCED

2021 SESSION

21-0384  
10/08

HOUSE BILL

**356**

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

SPONSORS: Rep. Long, Hills. 10

COMMITTEE: Executive Departments and Administration

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ANALYSIS

The bill makes administrative changes and clarifications to the employees' contributory retirement system of the city of Manchester, including compliance with the applicable provisions of the Internal Revenue Code and related Treasury regulations, expanding the options available to the system's board whenever an elected trustee become unwilling or incapable of completing their term of election, and other technical changes.

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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 Twenty One*

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

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

1       1 Manchester Employees' Contributory Retirement System; Internal Revenue Code  
2 Qualification. Amend 1973, 218:3 as amended by 2002, 194:1 to read as follows:

3       218:3 Internal Revenue Code Qualification. The retirement system established in this act is  
4 intended to create a tax-qualified governmental retirement plan under sections 401(a) and 414(d) of  
5 the Code as amended. ***The applicable provisions of the retirement system necessary to***  
6 ***comply with all qualification requirements of the Code, the applicable Treasury***  
7 ***Regulations, and other Internal Revenue Service guidance and pronouncements shall be***  
8 ***set forth in this statute and the retirement system administrative rules.***

9       2 Definition; Earnings. Amend 1973, 218:4 as amended by 2002, 194:1 to read as follows:

10       VIII. "Earnings" means the total salary or wages of a member for the member's employment  
11 with the city, including all grants and allowances for maintenance at such figures as may be  
12 determined by the retirement board. For members whose retirement date is after July 1, 1996, and  
13 members who on July 1, 1996 and thereafter terminated city employment and elected to defer their  
14 benefits until their normal retirement date but had not yet reached their normal retirement date,  
15 earnings shall include unused sick time included in the member's salary or wages at the member's  
16 date of termination of city employment. For members whose retirement date is after December 1,  
17 1997, and members who on December 1, 1997 and thereafter terminated city employment and  
18 elected to defer their benefits until their normal retirement date but had not yet reached their  
19 normal retirement date, earnings shall include unused vacation time included in the member's  
20 salary or wages at their date of termination of city employment. ***The determination of earnings***  
21 ***and final average earnings shall at all times be made in accordance with section 415 of the***  
22 ***Code, and the related Treasury Regulations, the applicable provisions of which shall be set***  
23 ***forth in the administrative rules. Beginning January 1, 2009, to the extent required by***  
24 ***sections 401(h) and 414(u)(12) of the Code, any differential wage payments to a member***  
25 ***from an employer (while the individual is performing qualified military service as defined***  
26 ***in Chapter 43 of Title 38, United States Code) shall be treated as compensation for***  
27 ***purposes of applying the limits on annual additions under Code section and for purposes***  
28 ***of determining earnings and final average earnings.***

29       3 Board Vacancy. Amend 1973, 218:5 IV as amended by 2002, 194:1 and 2003, 102:2 to read as  
30 follows:

1 IV. In the event of a vacancy on the retirement board, such vacancy shall be filled in the  
 2 same manner as the member to be succeeded was appointed or elected and for the remainder of the  
 3 unexpired term. Any person who is vacating a trustee position on the board may, if the trustee's  
 4 circumstances permit, continue to represent the membership as a trustee [~~for a period not to exceed~~  
 5 ~~6 months~~] ***until the next regularly scheduled trustee election***, or, until a successor is appointed  
 6 or elected, whichever period is shortest. ***In the event that an elected trustee is unwilling or***  
 7 ***incapable of completing the year in which they cease to be a member, the retirement board***  
 8 ***may appoint an individual, as defined in section 5, paragraph I, to complete the calendar***  
 9 ***year.***

10 4 Contributions by the City; Actuarial Assumptions. Amend 1973, 218:8 as amended by 2002,  
 11 194:1 to read as follows:

12 218:8 Contributions by the City. The city shall appropriate annually to the retirement board the  
 13 amounts required to fund the benefits set forth in the act as determined by the retirement board on  
 14 the basis of an actuary's valuation, which shall be based on sound actuarial funding methods,  
 15 assumptions, and principles. ***The actuarial assumptions used by the actuary shall be in***  
 16 ***conformity with the requirements of the Code and the related Treasury Regulations and***  
 17 ***shall be set forth in the administrative rules.***

18 5 Retirement Benefits; Payments. Amend 1973, 218:12 IV as amended by 2002, 194:1 and 2006,  
 19 115:1 to read as follows:

20 IV. Notwithstanding any provision of this act, the maximum pension payment payable to  
 21 any member or beneficiary shall be limited to such extent as may be necessary to comply with the  
 22 requirements of sections 401(a)(16), 401(a)(17) and 415 of the Code. The retirement benefits payable  
 23 hereunder shall be made in the form, at such time and otherwise in compliance with the distribution  
 24 and rollover requirements of sections 402(c), 401(a)(9), and 401(a)(31) of the Code ***and the related***  
 25 ***Treasury Regulations the applicable provisions of which shall be set forth in the***  
 26 ***administrative rules.*** Member contributions and benefit upgrade purchases shall be made in  
 27 conformity with section 415 of the Code ***and the related Treasury Regulations the applicable***  
 28 ***provisions of which shall be set forth in the administrative rules.***

29 6 New Paragraph; Benefits Upon Death of a Member. Amend 1973, 218:16 as amended by 2002,  
 30 194:1 by inserting after paragraph III the following new paragraph:

31 IV. Death During Military Service. Effective with respect to deaths occurring on or after  
 32 January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43  
 33 of Title 38, United States Code), death benefits shall be provided to the survivors of a member to the  
 34 extent required by section 401(a)(37) of the Code.

35 7 Review of Retirement Board Orders; Time. Amend 1973, 218:26, I as amended by 2002, 194:1  
 36 to read as follows:

HB 356 - AS INTRODUCED

- Page 3 -

1 I. Any member aggrieved by a decision of the retirement board denying the benefits  
2 provided by this act may request a hearing by filing a written petition no later than 45 days after the  
3 date of the decision. The petition shall include the name and address of the member, the denial of  
4 benefits being contested, legal basis on which the denial is being contested, and any documentation  
5 or exhibits which support the member's position. The retirement board shall grant or deny the  
6 hearing request [~~within 14 days of the member's request~~] **at its next scheduled meeting**. The  
7 rules and procedures for all hearings shall be set forth in the administrative rules.

8 8 Medical Insurance Coverage. Amend 1973, 218:28, II as amended by 2002, 194:1 to read as  
9 follows:

10 II. Member contributions toward this subsidy shall be funded by an increase in the member  
11 contribution rate established pursuant to section 218:9, I by 1.25 percent. [~~Under no circumstances~~  
12 ~~shall a member be entitled to a refund of contributions made to the Section 401(h) subtrust.~~]  
13 Notwithstanding any other provisions of chapter 218 to the contrary, members shall not be entitled  
14 to a refund of contributions made to the Section 401(h) subtrust. The city shall fund the remaining  
15 cost of funding the 401(h) subtrust based on methods and assumptions determined by the board.  
16 Any contribution made by the city intended to fund the 401(h) subtrust shall be so designated. Any  
17 transfers of retirement system assets to the 401(h) subtrust shall be limited to excess assets as  
18 defined in Internal Revenue Code Section 420(e)(2). All such transfers must be made in accordance  
19 with Internal Revenue Code Section 420 and all applicable Treasury regulations.

20 9 Effective Date. This act shall take effect upon its passage.

# Voting Sheets

**Senate Executive Departments and  
Administration Committee  
EXECUTIVE SESSION RECORD  
2021 Session**

Bill # HB 356

Hearing date: 3-24-21

Executive Session date: 3-31-21

Motion of: OTP Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: Consent Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: \_\_\_\_\_ Vote: \_\_\_\_\_

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Sen. Cavanaugh

Notes: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE  
FOR THE CONSENT CALENDAR

Wednesday, March 31, 2021

THE COMMITTEE ON Executive Departments and Administration

to which was referred **HB 356**

AN ACT

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

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator Kevin Cavanaugh  
For the Committee

The bill makes administrative changes and clarifications to the Employees' Contributory Retirement System of the City of Manchester, including compliance with the applicable provisions of the Internal Revenue Code and related Treasury regulations, expanding the options available to the System's Board whenever an elected trustee become unwilling or incapable of completing their term of election, and other technical changes. The first changes in HB 356 clarify how vacant trustee positions should be filled. The other changes in HB 356 are needed in order to protect the tax-exempt status of the fund and make it easier for the Employees' Contributory Retirement System to update their rules and practices to maintain compliance with federal regulations in the future without having to go through the full legislative process. These changes will save time and effort for all parties involved.

Cameron Lapine 271-2104

FOR THE CONSENT CALENDAR

**EXECUTIVE DEPARTMENTS AND ADMINISTRATION**

**HB 356**, relative to the city of Manchester employees' contributory retirement system.

Ought to Pass, Vote 5-0.

Senator Kevin Cavanaugh for the committee.

The bill makes administrative changes and clarifications to the Employees' Contributory Retirement System of the City of Manchester, including compliance with the applicable provisions of the Internal Revenue Code and related Treasury regulations, expanding the options available to the System's Board whenever an elected trustee become unwilling or incapable of completing their term of election, and other technical changes. The first changes in HB 356 clarify how vacant trustee positions should be filled. The other changes in HB 356 are needed in order to protect the tax-exempt status of the fund and make it easier for the Employees' Contributory Retirement System to update their rules and practices to maintain compliance with federal regulations in the future without having to go through the full legislative process. These changes will save time and effort for all parties involved.



## General Court of New Hampshire - Bill Status System

**Docket of HB356**

Docket Abbreviations

**Bill Title:** relative to the city of Manchester employees' contributory retirement system.*Official Docket of HB356.:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
1/9/2021	H	<b>Introduced</b> (in recess of) 01/06/2021 and referred to Executive Departments and Administration <b>HJ 2 P. 44</b>
1/21/2021	H	Public Hearing: 02/01/2021 01:05 pm Members of the public may attend using the following link: To join the webinar: <a href="https://zoom.us/j/94106022547">https://zoom.us/j/94106022547</a> / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
2/9/2021	H	Committee Report: Ought to Pass (Vote 15-0; CC) <b>HC 12 P. 6</b>
2/24/2021	H	<b>Ought to Pass:</b> MA VV 02/24/2021 <b>HJ 3 P. 8</b>
3/4/2021	S	Introduced 03/04/2021 and Referred to Executive Departments and Administration; <b>SJ 7</b>
3/17/2021	S	Remote <b>Hearing:</b> 03/24/2021, 09:30 am; Links to join the hearing can be found in the Senate Calendar; <b>SC 16</b>
3/31/2021	S	Committee Report: Ought to Pass, 04/08/2021; Vote 5-0; CC; <b>SC 18</b>
4/8/2021	S	<b>Ought to Pass:</b> RC 23Y-1N, MA; OT3rdg; 04/08/2021; <b>SJ 11</b>
4/16/2021	S	Enrolled Bill Amendment # <b>2021-1140e</b> RC 24Y-0N, AA, (In recess of 04/08/2021); <b>SJ 12</b>
4/22/2021	H	Enrolled Bill Amendment # <b>2021-1140e:</b> AA VV (in recess of) 04/09/2021 <b>HJ 7 P. 100</b>
5/6/2021	S	Enrolled <b>RC 23Y-0N, MA,</b> (In recess of 05/06/2021); <b>SJ 15</b>
5/6/2021	H	Enrolled (in recess of) 04/09/2021 <b>HJ 7 P. 102</b>
5/19/2021	H	Signed by Governor Sununu 05/17/2021; Chapter 40; Eff: 05/17/2021

NH House

NH Senate

# Other Referrals

April 15, 2021  
2021-1140-EBA  
04/05

Enrolled Bill Amendment to HB 356

The Committee on Enrolled Bills to which was referred HB 356

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

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

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Explanation to Enrolled Bill Amendment to HB 356

This enrolled bill amendment corrects 2 session law references in the bill.

Enrolled Bill Amendment to HB 356

Amend section 2 of the bill by replacing line 1 with the following:

2 Definition; Earnings. Amend 1973, 218:4, VIII as amended by 2002, 194:1 to read as follows:

Amend section 8 of the bill by replacing lines 1-2 with the following:

8 Medical Insurance Coverage. Amend 1973, 218:28, II, as amended by 2005, 41:1, to read as follows:

**Senate Inventory Checklist for Archives**

Bill Number: HB 356

Senate Committee: ED+A

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

**Bill Hearing Documents: {Legislative Aides}**

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

**Committee Action Documents: {Legislative Aides}**

All amendments considered in committee (including those not adopted):

\_\_\_ - amendment # \_\_\_\_\_      \_\_\_ - amendment # \_\_\_\_\_  
 \_\_\_ - amendment # \_\_\_\_\_      \_\_\_ - amendment # \_\_\_\_\_

- Executive Session Sheet
- Committee Report

**Floor Action Documents: {Clerk's Office}**

All floor amendments considered by the body during session (only if they are offered to the senate):

\_\_\_ - amendment # \_\_\_\_\_      \_\_\_ - amendment # \_\_\_\_\_  
 \_\_\_ - amendment # \_\_\_\_\_      \_\_\_ - amendment # \_\_\_\_\_

**Post Floor Action: (if applicable) {Clerk's Office}**

- Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
- Enrolled Bill Amendment(s) 1140
- Governor's Veto Message

**All available versions of the bill: {Clerk's Office}**

\_\_\_ as amended by the senate      \_\_\_ as amended by the house  
 final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Cameron M. Jopline  
Committee Aide

7/20/21  
Date

Senate Clerk's Office AK