A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 9-9-61 SO AS TO PROVIDE FOR THE AWARDING OF AN ANNUAL COST-OF-LIVING INCREASE IN BENEFITS PAYABLE BY THE RETIREMENT SYSTEM FOR MEMBERS OF THE GENERAL ASSEMBLY USING THE FORMULA AND CRITERIA FOR CALCULATING SUCH INCREASES USED IN THE SOUTH CAROLINA RETIREMENT SYSTEM AND THE SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM; TO AMEND SECTION 9-1-1810, AS AMENDED, RELATING TO THE AWARD OF ANNUAL COST-OF-LIVING INCREASES IN BENEFITS PAID BY THE SOUTH CAROLINA RETIREMENT SYSTEM TO REFLECT INCREASES IN THE CONSUMER PRICE INDEX, SO AS TO INCREASE FROM ONE PERCENT TO TWO PERCENT THE GUARANTEED ANNUAL ADJUSTMENT AND TO REVISE THE CRITERIA WHICH MUST BE MET BEFORE FURTHER INCREASES MAY BE AWARDED SUBJECT TO THE CURRENT OVERALL FOUR PERCENT LIMIT ON ANNUAL COST-OF-LIVING INCREASES; TO AMEND SECTION 9-9-60, AS AMENDED, RELATING TO RETIREMENT UNDER AND RETIREMENT BENEFITS PAID BY THE RETIREMENT SYSTEM FOR MEMBERS OF THE GENERAL ASSEMBLY, SO AS TO REFERENCE THE COST-OF-LIVING ADJUSTMENT IN THOSE BENEFITS PAYABLE PURSUANT TO SECTION 9-9-61 OF THE 1976 CODE AS ADDED BY THIS ACT AND TO FURTHER DEFINE "EARNABLE COMPENSATION" FOR PURPOSES OF THAT SYSTEM; TO AMEND SECTION 9-11-310, AS AMENDED, RELATING TO THE AWARD OF AN ANNUAL COST-OF-LIVING INCREASE IN BENEFITS PAID BY THE SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM TO REFLECT INCREASES IN THE CONSUMER PRICE INDEX, SO AS TO PROVIDE A GUARANTEED TWO PERCENT ANNUAL ADJUSTMENT AND TO REVISE THE CRITERIA WHICH MUST BE MET BEFORE FURTHER INCREASES MAY BE AWARDED SUBJECT TO THE CURRENT OVERALL FOUR PERCENT LIMIT ON ANNUAL COST-OF-LIVING INCREASES, TO MAKE THE PROVISIONS OF THIS ACT UNSEVERABLE, AND TO PROVIDE THE ACTIONS REQUIRED BY THE STATE BUDGET AND CONTROL BOARD FOR THIS ACT TO BECOME EFFECTIVE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 9, Title 9 of the 1976 Code is amended by adding:

"Section 9-9-61. (A) As of the end of calendar year 2007 and thereafter, the increase in the ratio of the Consumer Price Index to the index as of the prior December thirty-first must be determined.

(B)(1) If the Consumer Price Index as determined pursuant to subsection (A) of this section increases by no more than two percent, the retirement allowance of each beneficiary in receipt of an allowance must be increased by a percentage equal to the increase in the index.

(2) If the Consumer Price Index as determined pursuant to subsection (A) of this section increases by more than two percent, then:

(a) the retirement allowance of each beneficiary in receipt of an allowance must be increased by two percent; and

(b) the retirement allowance may be further increased beyond two percent up to the lesser of the total percentage increase in the Consumer Price Index of four percent, but only to the extent all of the following conditions are met:

(i) the amortization period for unfunded liability as reported in the annual valuation by the actuary for the most recently concluded fiscal year is at twenty-five years or below;

(ii) the estimated funded ratio in the current year, after an increase pursuant to this subitem, does not decrease from the actuary's reported funded ratio for the most recently completed fiscal year;

(iii) the estimated amortization period in the current year, after the increase pursuant to this subitem, is reduced by at least one year from that reported by the actuary for the most recently completed fiscal year; and

(iv) no increased employer contribution is required to support the increase pursuant to this subitem.

(C) The increase in retirement allowances commences the July first immediately following the December thirty-first that the increase in ratio was determined, and all increases in retirement allowances must be granted to these beneficiaries in receipt of a retirement allowance on July first immediately preceding the effective date of the increase. Any increase in allowance granted pursuant to this section must be included in the determination of any subsequent increases, irrespective of any subsequent decrease in the Consumer Price Index.

(D) The allowance of a surviving annuitant of a beneficiary whose allowance is increased under this section, when and if payable, must be increased by the same percent.

(E) For purposes of this section, 'Consumer Price Index' means the Consumer Price Index for Wage Earners and Clerical Workers, as published by the United States Department of Labor, Bureau of Labor Statistics."

SECTION 2. Section 9-1-1810 of the 1976 Code, as last amended by Act 153 of 2005, is further amended to read:

"Section 9-1-1810. (A) As of the end of each calendar year, the increase in the ratio of the Consumer Price Index to the index as of the prior December thirty-first must be determined.

(B)(1) If the Consumer Price Index as determined pursuant to subsection (A) of this section increases by no more than ~~one~~two percent, the retirement allowance, inclusive of the supplemental allowances payable under the provisions of Sections 9-1-1910, 9-1-1920, and 9-1-1930, of each beneficiary in receipt of an allowance must be increased by a percentage equal to the increase in the index.

(2) If the Consumer Price Index as determined pursuant to subsection (A) of this section increases by more than ~~one~~two percent, then:

(a) the retirement allowance of each beneficiary in receipt of an allowance, inclusive of the ~~supplement~~supplemental allowances payable under the provisions of Section 9-1-1910, 9-1-1920, and 9-1-1930, must be increased by ~~one~~two percent; and

(b) the retirement allowance may be further increased by the board beyond ~~one~~two percent up to the lesser of the total percentage increase in the Consumer Price Index or four percent, but only to the extent ~~that the additional liabilities because of the increase in allowances would not extend the amortization period to liquidate the unfunded actuarial accrued liability of the South Carolina Retirement System beyond thirty years. In considering this additional increase, the board shall consider unrealized investment gains and losses~~all of the following conditions are met:

(i) the amortization period for unfunded liability as reported in the annual valuation by the actuary for the most recently concluded fiscal year is at twenty-five years or below;

(ii) the estimated funded ratio in the current year, after an increase pursuant to this subitem, does not decrease from the actuary's reported funded ratio for the most recently completed fiscal year;

(iii) the estimated amortization period in the current year, after the increase pursuant to this subitem, is reduced by at least one year from that reported by the actuary for the most recently completed fiscal year; and

(iv) no increased employer contribution is required to support the increase pursuant to this subitem.

(C) The increase in retirement allowances commences the July first immediately following the December thirty-first that the increase in ratio was determined, and all increases in retirement allowances must be granted to these beneficiaries in receipt of a retirement allowance on July first immediately preceding the effective date of the increase. Any increase in allowance granted pursuant to this section must be included in the determination of any subsequent increases, irrespective of any subsequent decrease in the Consumer Price Index.

(D) The allowance of a surviving annuitant of a beneficiary whose allowance is increased under this section ~~must~~, when and if payable, must be increased by the same percent.

(E) For purposes of this section, 'Consumer Price Index' means the Consumer Price Index for Wage Earners and Clerical Workers, as published by the United States Department of Labor, Bureau of Labor Statistics."

SECTION 3. Section 9-9-60(2) of the 1976 Code, as last amended by Act 189 of 1989, is further amended to read:

"(2) Effective July 1, 1989, a retired member shall receive a monthly retirement allowance which is equal to one-twelfth of four and eighty-two hundredths percent of earnable compensation multiplied by the number of years of his credited service prorated for periods less than a year, including any increases awarded pursuant to Section 9-9-61. 'Earnable compensation' for purposes of this subsection, means forty times the daily rate of remuneration, plus twelve thousand dollars, of a member of the General Assembly at the time of the member's retirement or as of July 1, 2008, whichever is greater."

SECTION 4. Section 9-11-310 of the 1976 Code, as last amended by Act 1 of 2001, is further amended to read:

"Section 9-11-310. ~~As of the end of each calendar year, the increase in the ratio of the Consumer Price Index to the index as of the prior December thirty-first must be determined, and if the increase equals or exceeds four percent, the retirement allowance must be increased by four percent. If the increase in the index is less than four percent, the retirement allowances, as determined above, must be increased by a percentage equal to the increase in the index. The increase in retirement allowances commences the July first immediately following the December thirty-first that the increase in ratio was determined.~~

~~All increases in retirement allowances must be granted to those beneficiaries in receipt of a retirement allowance on July first immediately preceding the effective date of the increase. The increase in allowances is effective only if the additional liabilities on account of the increase in allowances do not require an increase in the employer rate of contribution. Any increase in allowance granted pursuant to this section is permanent, irrespective of any subsequent decrease in the Consumer Price Index, and must be included in determining any subsequent increase.~~

~~The allowance of a surviving annuitant of a beneficiary whose allowance is increased under this section, when and if payable, must be increased by the same percent.~~

~~For purposes of this section, "Consumer Price Index" means the Consumer Price Index for Wage Earners and Clerical Workers as published by the United States Department of Labor, Bureau of Labor Statistics.~~(A) As of the end of each calendar year, the increase in the ratio of the Consumer Price Index to the index as of the prior December thirty-first must be determined.

(B)(1) If the Consumer Price Index as determined pursuant to subsection (A) of this section increases by no more than two percent, the retirement allowance of each beneficiary in receipt of an allowance must be increased by a percentage equal to the increase in the index.

(2) If the Consumer Price Index as determined pursuant to subsection (A) of this section increases by more than two percent, then:

(a) the retirement allowance of each beneficiary in receipt of an allowance must be increased by two percent; and

(b) the retirement allowance may be further increased beyond two percent up to the lesser of the total percentage increase in the Consumer Price Index or four percent, but only to the extent all of the following conditions are met:

(i) the amortization period for unfunded liability as reported in the annual valuation by the actuary for the most recently concluded fiscal year is at twenty-five years or below;

(ii) the estimated funded ratio in the current year, after an increase pursuant to this subitem, does not decrease from the actuary's reported funded ratio for the most recently completed fiscal year;

(iii) the estimated amortization period in the current year, after the increase pursuant to this subitem, is reduced by at least one year from that reported by the actuary for the most recently completed fiscal year; and

(iv) no increased employer contribution is required to support the increase pursuant to this subitem.

(C) The increase in retirement allowances commences the July first immediately following the December thirty-first that the increase in ratio was determined, and all increases in retirement allowances must be granted to these beneficiaries in receipt of a retirement allowance on July first immediately preceding the effective date of the increase. Any increase in allowance granted pursuant to this section must be included in the determination of any subsequent increases, irrespective of any subsequent decrease in the Consumer Price Index.

(D) The allowance of a surviving annuitant of a beneficiary whose allowance is increased under this section, when and if payable, must be increased by the same percent.

(E) For purposes of this section, 'Consumer Price Index' means the Consumer Price Index for Wage Earners and Clerical Workers, as published by the United States Department of Labor, Bureau of Labor Statistics.

(F) For purposes of paying a portion of the increase in the retirement allowance provided pursuant to subsection (B)(1) of this section, the employer contribution rate for the system must be increased by an amount required to maintain the system's amortization period to liquidate the unfunded actuarial accrued liability at thirty years or one-half percent of the earnable compensation of all members employed by an employer participating in the system, whichever is less. The increase in the employer contribution rate must be effective July 1, 2009. The employer rate provided in this section also applies to payments for unused annual leave under the circumstances provided in Section 9-11-210. The employer rate provided in this section includes the system's normal contribution rate and accrued liability contribution rate, but does not include contributions for group life insurance, the accidental death benefit program or other benefits that are remitted to the retirement systems. Contributions for group life insurance, the accidental death benefit program, or other benefits are in addition to the applicable employer contribution rate."

SECTION 5. If all or any portion of this act, for any reason, is held to be unconstitutional, invalid, or unenforceable, either in whole or in part, or if any of the amendments made to Section 9-1-1810 of the 1976 Code by Act 153 of 2005, for any reason, are held to be unconstitutional, invalid or unenforceable, either in whole or in part, then effective at the time of that holding:

(1) Section 9-9-61 of the 1976 Code as added by this act is repealed;

(2) Section 9-1-1810 of the 1976 Code is amended to the version of that section in effect before the enactment of Act 153 of 2005; and

(3) Sections 9-9-60(2) and 9-11-310 of the 1976 Code are amended to the versions of Sections 9-9-60(2) and 9-11-310 in effect before the enactment of this act.

SECTION 6. (A) This act takes effect when the State Budget and Control Board has:

(1) approved an assumed annual rate of return on the investments of the assets of the South Carolina Retirement System, the Retirement System for Members of the General Assembly, and the South Carolina Police Officers' Retirement System of at least eight percent; and

(2) determined that the increase in retirement benefits can be provided on a sound actuarial basis as required pursuant to Article X, Section 16 of the Constitution of this State.

(B) The provisions of this act first apply to cost-of-living adjustments approved to be awarded on the July first immediately following the State Budget and Control Board's actions required for this act to be effective as provided in subsection (A) of this section.

(C) If for any reason, an assumed annual rate of return on the investments of the assets of the South Carolina Retirement System, the Retirement System for Members of the General Assembly, and the South Carolina Police Officers' Retirement System of less than eight percent is approved or otherwise takes effect, then effective at that time the provisions of items (1) and (3) of Section 5 of this act apply and Section 9-1-1810 of the 1976 Code is amended to the version of that section in effect before the enactment of this act.