

No. 18. An act relating to making miscellaneous amendments to Vermont's retirement laws.

(H.304)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 3 V.S.A. § 465(j) is added to read:

(j) The survivors of a member who dies after December 31, 2006 while performing qualified military service shall be entitled to any additional benefits, other than benefit accruals related to the period of qualified military service, that would have been provided under the Plan had the member resumed employment and then terminated employment on account of death.

Sec. 2. 3 V.S.A. § 472a is amended to read:

§ 472a. COMPLIANCE WITH FEDERAL LAW

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(i) Direct rollovers. An individual withdrawing a distribution from the ~~retirement system~~ Retirement System which constitutes an “eligible rollover distribution” within the meaning of 26 U.S.C. § 402, may elect, in the time and manner prescribed by the ~~retirement board~~ Retirement Board and after receipt of proper notice, to have any portion of the distribution paid directly to another plan that is qualified under 26 U.S.C. § 401(a), to an annuity plan described in 26 U.S.C. § 403(a), to an annuity contract described in 26 U.S.C. § 403(b), or to an eligible plan described in 26 U.S.C. § 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to account separately for

amounts transferred into the plan, or to an individual retirement account or annuity described in 26 U.S.C. § 408(a) or (b), in a direct rollover. For distributions made after December 31, 2009, a nonspouse beneficiary who is a designated beneficiary under 26 U.S.C. § 401(a)(9) may establish an individual retirement account into which all or a portion of a death distribution from the Retirement System to which such nonspouse beneficiary is entitled can be transferred directly.

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Sec. 3. 3 V.S.A. § 477a is amended to read:

§ 477a. ELECTIONS

(a) Any member who has rendered 15 years of creditable service and who has, prior to becoming a member of the system, served a minimum of one full year of full-time service in the military or one full year of full-time service as a member of the Cadet Nurse Corps in World War II, the Peace Corps, ~~or~~ VISTA, or AmeriCorps for which the member has derived no military pension benefits, may elect to have included in the member's creditable service all or any part of the member's military, Cadet Nurse Corps, Peace Corps, ~~or~~ VISTA, or AmeriCorps service not exceeding five years. Any member who so elects shall deposit in the ~~fund~~ Fund by a single contribution the amount or amounts determined by the system's actuary to be cost neutral to the system. Notwithstanding the provisions of this subsection, any member shall, upon application, be granted up to three years of credit for military service during

the periods June 25, 1950, through January 31, 1955, February 28, 1961, through August 4, 1964, if service was performed in what is now the Republic of Vietnam, and August 5, 1964, through May 7, 1975, and shall not be required to make a contribution, provided the member has rendered 15 years of creditable service and, prior to becoming a member, served a minimum of one full year of full-time service in the military for which he or she has derived no military pension benefits. The provisions of this subsection shall also be available to ~~state~~ State employees who are not members of the classified system and who elect to participate in the defined contribution retirement plan under chapter 16A of this title. Notwithstanding the foregoing, in the event of a conflict between the provisions of this subsection and the provisions of 10 U.S.C. § 12736 concerning the counting of the same full-time military service toward both military and ~~state~~ State pensions, the provisions of the United States Code shall control.

Sec. 4. 3 V.S.A. § 479 is amended to read:

§ 479. GROUP INSURANCE

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(f) There is created a medical account to be maintained under the Retirement System pursuant to 26 U.S.C. § 401(h), which shall be used to pay for health and medical benefits as the Board may arrange pursuant to this section. Contributions to the account shall be reasonable and ascertainable. The medical account shall be subordinate to the retirement benefits provided

by the Retirement System. It shall be impossible, at any time before satisfaction of all liabilities to provide retiree medical benefits, for any part of the corpus or income of the account to be used for, or diverted to, any purpose other than providing health and medical benefits. All balances in the account at the end of the fiscal year shall be carried forward, and interest earned shall remain in the account. Notwithstanding the exclusive benefit rule of subsection 472a(b) of this title, in the event of termination of the account on satisfaction of all liabilities under the ~~plan~~ Plan to provide retiree medical benefits, any assets remaining in the account shall be returned to the State of Vermont. The aggregate actual contributions for medical benefits, when added to the actual contributions for life insurance, if any, under the Plan, is limited to 25 percent of the total actual contributions made to the Plan (other than contributions to fund past service credits) after the date on which the Section 401(h) account is established.

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Sec. 5. 16 V.S.A. § 1943a is amended to read:

§ 1943a. COMPLIANCE WITH FEDERAL LAW

* * *

(i) Direct rollovers. An individual withdrawing a distribution from the Retirement System that constitutes an “eligible rollover distribution” within the meaning of 26 U.S.C. § 402, may elect, in the time and manner prescribed by the Retirement Board and after receipt of proper notice, to have any portion of

the distribution paid directly to another plan that is qualified under 26 U.S.C. § 401(a), to an annuity plan described in 26 U.S.C. § 403(a), to an annuity contract described in 26 U.S.C. § 403(b), or to an eligible plan described in 26 U.S.C. § 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and that agrees to account separately for amounts transferred into such plan, or to an individual retirement account or annuity described in 26 U.S.C. § 408(a) or (b), in a direct rollover. For distributions made after December 31, 2009, in accordance with 26 U.S.C. § 402(c)(11), a nonspouse beneficiary who is a designated beneficiary under 26 U.S.C. § 401(a)(9) may establish an individual retirement account into which all or a portion of a death distribution from the Retirement System to which such nonspouse beneficiary is entitled can be transferred directly.

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Sec. 6. 16 V.S.A. § 1940(b)(3) is added to read:

(3) The survivors of a member who dies after December 31, 2006, while performing qualified military service shall be entitled to any additional benefits, other than benefit accruals related to the period of qualified military service, that would have been provided under the Plan had the member resumed employment and then terminated employment on account of death.

Sec. 7. 16 V.S.A. § 1944 is amended to read:

§ 1944. VERMONT TEACHERS' RETIREMENT FUND

* * *

(b) Member contributions.

* * *

(8) Any Group A or Group C member who has rendered 15 years of creditable teaching service and who has, prior to becoming a member of the System, served a minimum of one full year of full-time service in the military, one full year of full-time service as a member of the Cadet Nurse Corps in World War II, the Peace Corps, ~~or~~ VISTA, or AmeriCorps for which the member has derived no military or other pension benefits, may elect to have included in the member's creditable service all or any part of the member's military ~~or~~, Cadet Nurse Corps ~~or~~, Peace Corps ~~or~~, VISTA, or AmeriCorps service not exceeding five years. Any Group A member who elects credit under this subdivision shall deposit in the Fund by a single contribution an amount computed at regular interest to be sufficient to provide at age 60 an annuity equal to one-120th of the member's average final compensation multiplied by the number of years of the service rendered for which the member elects to receive credit. Any Group A member who elects credit for service in the Cadet Nurse Corps under this subdivision and any Group C member who elects credit under this subdivision shall deposit in the Fund by a single contribution an amount computed at regular interest to be sufficient to

provide at normal retirement an annuity equal to one and two-thirds or two percent, whichever is applicable pursuant to section 1937 of this title, of the member's average final compensation multiplied by the number of years of the service for which the member elects to receive credit. Notwithstanding the provisions of this subdivision, any Group C member who was a Group B member and any Group A member shall, upon application, be granted up to three years of credit for military service during the periods June 25, 1950 through January 31, 1955, February 28, 1961 through August 4, 1964 if service was performed while in what is now the Republic of Vietnam, and August 5, 1964 through May 7, 1975 and shall not be required to make a contribution, provided the member has rendered 15 years of creditable teaching service and prior to becoming a member served a minimum of one full year of full-time service in the military for which he or she has derived no military pension benefits. Notwithstanding the foregoing, in the event of a conflict between the provisions of this subsection and the provisions of 10 U.S.C. § 12736 concerning the counting of the same full-time military service toward both military and State pensions, the provisions of the United States Code shall control.

* * *

(i) There is created a medical account to be maintained under the Retirement System pursuant to 26 U.S.C. § 401(h), which shall be used to pay for health and medical benefits as the Board may arrange pursuant to

subsection 1942(p) of this title. Contributions to the account shall be reasonable and ascertainable. The medical account shall be subordinate to the retirement benefits provided by the Retirement System. It shall be impossible, at any time before satisfaction of all liabilities to provide retiree medical benefits, for any part of the corpus or income of the account to be used for, or diverted to, any purpose other than providing health and medical benefits. All balances in the account at the end of the fiscal year shall be carried forward, and interest earned shall remain in the account. Notwithstanding the exclusive benefit rule of subsection 1943a(b) of this title, in the event of termination of the account on satisfaction of all liabilities under the plan to provide retiree medical benefits, any amount remaining in the account shall be returned to the State of Vermont. The aggregate actual contributions for medical benefits, when added to the actual contributions for life insurance, if any, under the Plan, are limited to 25 percent of the total actual contributions made to the Plan (other than contributions to fund past service credits) after the date on which the Section 401(h) account is established.

Sec. 8. 24 V.S.A. § 5054a(b) is amended to read:

(b) Any member who has rendered 15 years of creditable service and who has, prior to becoming a member of the System, served a minimum of one full year of full-time service in the military or one full year of full-time service as a member of the Cadet Nurse Corps in World War II, the Peace Corps, or VISTA, or AmeriCorps for which the member has derived no military pension

benefits, may elect to have included in the member's creditable service all or any part of the member's military, Cadet Nurse Corps, Peace Corps, ~~or~~ VISTA, or AmeriCorps service not exceeding five years. Any member who so elects shall deposit in the Fund by a single contribution the amount or amounts determined by the System's actuary to be cost-neutral to the System.

Notwithstanding the foregoing, in the event of a conflict between the provisions of this subsection and the provisions of 10 U.S.C. § 12736 concerning the counting of the same full-time military service toward both military and State pensions, the provisions of the U.S. Code shall control.

Sec. 9. 24 V.S.A. § 5063a is amended to read:

§ 5063a. COMPLIANCE WITH FEDERAL LAW

* * *

(i) Direct rollovers. An individual withdrawing a distribution from the Retirement System which constitutes an "eligible rollover distribution" within the meaning of 26 U.S.C. § 402, may elect, in the time and manner prescribed by the Retirement Board and after receipt of proper notice, to have any portion of the distribution paid directly to another plan that is qualified under 26 U.S.C. § 401(a), to an annuity plan described in 26 U.S.C. § 403(a), to an annuity contract described in 26 U.S.C. § 403(b), or to an eligible plan described in 26 U.S.C. § 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to account separately for amounts

transferred into such plan, or to an individual retirement account or annuity described in 26 U.S.C. § 408(a) or (b), in a direct rollover. For distributions made after December 31, 2009 in accordance with 26 U.S.C. § 402(c)(11), a nonspouse beneficiary who is a designated beneficiary under 26 U.S.C. § 401(a)(9), may establish an individual retirement account into which all or a portion of a death distribution from the Retirement System to which such nonspouse beneficiary is entitled can be transferred directly.

(j) Compliance with the Uniformed Services Employment and Reemployment Rights Act (USERRA). Notwithstanding any provision of law to the contrary, contributions, benefits, and service credits with respect to qualified military service shall be provided under the ~~system~~ System in accordance with 26 U.S.C. § 414(u), unless State law provides more favorable benefits than those required by federal law. The survivors of a member who dies after December 31, 2006 while performing qualified military service shall be entitled to any additional benefits, other than benefit accruals related to the period of qualified military service, that would have been provided under the Plan had the member resumed employment and then terminated employment on account of death.

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Sec. 10. VERMONT MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM
RATES FOR FISCAL YEAR 2016

Notwithstanding the provisions of 24 V.S.A. § 5064(b), for the period July 1, 2015 through June 30, 2016, contributions shall be made by Group A members at the rate of 2.5 percent of earnable compensation, by Group B members at the rate of 4.875 percent of earnable compensation, and by Group D members at the rate of 11.350 percent of earnable compensation. For the period July 1, 2015 through December 31, 2015, contributions shall be made by Group C members at the rate of 9.875 percent of earnable compensation, and for the period January 1, 2016 through June 30, 2016, at the rate of 10.0 percent.

Sec. 11. 3 V.S.A. § 462 is amended to read:

§ 462. REEXAMINATION OF DISABILITY BENEFICIARY

* * *

(b) Should the medical board report and certify to the retirement board that any disability beneficiary has a residual functional capacity which might enable the beneficiary to return to work, and should the retirement board reasonably conclude that the beneficiary is engaged in or is, as a result of specific findings made by a certified vocational counselor, able to engage in a gainful occupation paying more than the difference between the beneficiary's retirement allowance and his or her average final compensation at retirement, the beneficiary's pension shall be reduced to an amount which, together with

his or her annuity and the amount earnable by him or her, shall equal the beneficiary's average final compensation at retirement, adjusted for inflation each year following retirement on the same basis as for beneficiaries as provided in section 470 of this title. ~~Should the beneficiary's earning capacity be later changed, his or her pension may be further modified; provided that the new pension shall not exceed the amount of the pension originally granted nor an amount which, when added to the amount earnable by the beneficiary together with his or her annuity, equals the beneficiary's average final compensation at retirement. For the purposes of this subsection, "retirement allowance" shall mean the allowance payable without modification as provided in section 468 of this title. provided that:~~

(1) The retirement board shall provide written notice and an opportunity to be heard to the beneficiary prior to any reduction of the beneficiary's pension under this subsection (b).

(2) If the beneficiary has engaged in a gainful occupation subsequent to receiving disability retirement, the retirement board in its discretion may reject in whole or in part a vocational assessment of the beneficiary's ability to engage in a more gainful occupation and may rely in whole or in part on evidence of the beneficiary's actual earnings in determining the amount earnable by the beneficiary. In addition, if the retirement board's determination is based in whole or in part on a vocational assessment of ability to engage in a gainful occupation, the beneficiary shall be notified of his or her

entitlement to the same reemployment rights as are available to State employees under the existing collective bargaining agreement entered into between the State and the applicable bargaining representative, or extension of such contractual benefits. Such rights shall commence as of the date of the determination and shall be based upon the reemployment rights the beneficiary would have had at the time he or she retired from State service. The reduction of pension amount will be held in abeyance until the reemployment rights have expired. In the event that the beneficiary is subsequently reemployed by the State, the beneficiary's retirement allowance shall cease, effective on the date when reemployment commences. In the event that the beneficiary is not subsequently reemployed by the State, the reduction of the beneficiary's pension shall commence the month following the month in which the beneficiary's reemployment rights expired.

(3) In the event that a beneficiary's pension has been reduced and should the beneficiary's earning capability later change, his or her pension may be further modified; provided that no reemployment rights shall be afforded to the beneficiary in connection with any later change and provided further that the new pension amount, together with the amount earnable by him or her, shall not exceed the beneficiary's average final compensation at retirement, adjusted for inflation.

(4) As used in this subsection, "retirement allowance" shall mean the allowance payable without modification as provided in section 468 of this title.

(c) Every recipient of disability benefits shall, annually on a date determined by the retirement board, file with the State Treasurer a statement certifying, under penalty of perjury and in such form as the retirement board shall prescribe, the full amount of his or her earnings from earned income during the preceding calendar year. The State Treasurer may request, and the beneficiary shall provide within 60 days of such request, additional financial information and records pertinent to the beneficiary's earned income. The beneficiary's statement and accompanying forms and schedules, and any other financial information and records provided by the beneficiary to the State Treasurer shall be confidential. In the event that a beneficiary fails to submit the certification or any required or requested financial information or records pertinent to the beneficiary's earned income, the beneficiary's retirement allowance shall be suspended until all such information and records have been submitted, and in the event that the failure continues for one year, all the beneficiary's rights in and to his or her pension and any pending reemployment rights under this section may be revoked by the board. Notwithstanding any provision of this section to the contrary, if the beneficiary's earned income for the preceding year exceeded the difference between the beneficiary's retirement allowance and his or her average final compensation at retirement, the beneficiary shall refund the portion of the preceding year's retirement allowance that is equal to the amount of the reduction specified in subsection (b), and the refund amount may be offset against the beneficiary's monthly

pension benefits. Prior to suspension or revocation of the beneficiary's retirement allowance, reemployment rights, or inception of any offset under this subsection (c), the retirement board shall provide the beneficiary with written notice and an opportunity to be heard.

Sec. 12. 3 V.S.A. § 463 is amended to read:

§ 463. REINSTATEMENT

(a) Should a disability beneficiary be restored to service ~~and should his or her annual earnable compensation then or at any time thereafter be equal to or greater than his or her average final compensation at retirement,~~ or should any other beneficiary be restored to service, his or her retirement allowance shall cease, and the beneficiary shall again become a member of the retirement system, ~~and he or she shall contribute thereafter at the same rate he or she paid prior to retirement.~~ Anything in this subchapter to the contrary notwithstanding, upon his or her subsequent retirement, he or she shall be credited with all the service creditable to him or her at the time of his or her former retirement. However, if such beneficiary is restored to membership after the attainment of ~~the age of 55 years~~ of age, his or her pension upon subsequent retirement shall not exceed the sum of the pension which he or she was receiving immediately prior to his or her last restoration to membership and the pension that may have accrued on account of membership service since his or her last restoration to membership, provided that the rate percent of his or her total pension on his or her subsequent retirement shall not exceed the

rate he or she would have received had he or she remained in service during the period of prior retirement.

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Sec. 13 EFFECTIVE DATE

This act shall take effect on July 1, 2015.

Date Governor signed bill: May 7, 2015