

HOUSE BILL 2126

By Williams

AN ACT to amend Tennessee Code Annotated, Title 8,
Chapter 25, Part 1 and Title 8, Chapter 25, Part 2,
relative to deferred compensation plans.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-25-103(b), is amended by deleting the subsection and substituting instead the following:

(b) The commissioner of finance and administration, the chair of the finance ways and means committee of the senate, the chair of the finance, ways and means committee of the house of representatives, and the chair of the board of trustees for the Tennessee consolidated retirement system shall serve as trustees of any deferred or tax-sheltered compensation plans established pursuant to this chapter on behalf of state employees, including employees of institutions of higher education. For the purposes of this section, the term "state employees" shall not include K-12 teachers and other local education agency employees. Such plans include, but are not limited to, plans established pursuant to § 403(b) of the Internal Revenue Code (26 U.S.C. § 403(b)). The chair of the board of trustees for the Tennessee consolidated retirement system shall develop a plan document for the implementation and administration of deferred or tax-sheltered compensation plans established by the trustees. The terms of any deferred or tax-sheltered compensation plan established on behalf of state employees, including employees of institutions of higher education, may be modified by the chair of the board of trustees for the Tennessee consolidated retirement system with the concurrence of the commissioner of finance and administration.

SECTION 2. Tennessee Code Annotated, Section 8-25-103(c), is amended by deleting the subsection and substituting instead the following:

(c) For plans provided to state employees, including employees of institutions of higher education, any company providing administrative plan services must be approved by the trustees prior to the company's participation in any deferred compensation plan. In the case of all other plans, any company providing investment or administrative plan services shall be approved by the chief governing body of the governmental unit.

SECTION 3. Tennessee Code Annotated, Section 8-25-103(e), is amended by deleting the subsection.

SECTION 4. Tennessee Code Annotated, Section 8-25-104(a)(1), is amended by deleting the subdivision and substituting instead the following:

(1) The responsibility for implementing any deferred or tax-sheltered compensation plans maintained on behalf of employees of institutions of higher education pursuant to § 403(b) of the Internal Revenue Code (26 U.S.C. § 403(b)) shall be delegated to the chair of the board of trustees for the Tennessee consolidated retirement system with the approval of the remaining trustees. Through this delegation, the chair of the board of trustees for the Tennessee consolidated retirement system is authorized to establish the terms of the plans; offer investment options in accordance with the investment and administrative plan services approved by the trustees; complete the financial reporting and financial statements for the plans; assume the fiduciary duties for the plans; enter into contracts or agreements for the administration of the plans; carry out the day-to-day operations and responsibilities for the implementation of the plans, and any other duties not inconsistent with this chapter. The chair of the board of trustees for the Tennessee consolidated retirement system may assume responsibility for the implementation of any deferred or tax-sheltered compensation plans existing before or after the effective date of this act, that are maintained on behalf of employees

of institutions of higher education or pursuant to § 403(b) of the Internal Revenue Code (26 U.S.C. § 403(b)).

SECTION 5. Tennessee Code Annotated, Section 8-25-104(a)(2), is amended by deleting the subdivision and substituting instead the following:

(2) The responsibility for implementing the deferred compensation program for employees of state agencies, including employees of institutions of higher education, shall be delegated to the chair of the board of trustees for the Tennessee consolidated retirement system, with the approval of the remaining trustees.

SECTION 6. Tennessee Code Annotated, Section 8-25-104(a)(4)(B), is amended by deleting the subdivision.

SECTION 7. Tennessee Code Annotated, Section 8-25-105(c), is amended by deleting the subsection.

SECTION 8. Tennessee Code Annotated, Section 8-25-203(e), is amended by deleting the subsection and substituting instead the following:

(e) The trustees shall designate a company or companies from which administrative services are to be purchased under the optional retirement program. The trustees may delegate to the state treasurer the authority to procure these administrative services in a manner prescribed by the trustees.

SECTION 9. Tennessee Code Annotated, Section 8-25-203(g), is amended by deleting the subsection and substituting instead the following:

(g) The investment products offered to participants in the optional retirement program are subject to the approval of the trustees, and the trustees reserve the right to refuse or discontinue any product offered. The companies providing administrative services to the optional retirement program shall provide a report to the trustees at least semi-annually about participant use of the investment products offered.

SECTION 10. Tennessee Code Annotated, Section 8-25-204(a), is amended by deleting the subsection and substituting instead the following:

(a) Notwithstanding any other law to the contrary, any individual who is exempt from the Fair Labor Standards Act (29 U.S.C. § 201 et seq.) and who is employed in a state-supported institution of higher education, including, but not limited to, the Tennessee colleges of applied technology, may elect membership either in the retirement system established in § 8-34-201 or in the optional retirement program established under this part. In all cases of doubt, the state treasurer shall determine whether the employee is eligible to participate in the optional retirement program.

SECTION 11. Tennessee Code Annotated, Section 8-25-205(b), is amended by deleting the subsection and substituting instead the following:

(b) Employer contributions shall be credited to the optional retirement fund to provide retirement and death benefits for members and are not refundable in a lump sum for any reason, except death.

SECTION 12. Tennessee Code Annotated, Section 8-25-205(c), is amended by deleting the subsection.

SECTION 13. Tennessee Code Annotated, Section 8-25-211, is amended by deleting the section and substituting instead the following:

Upon retiring or otherwise terminating employment, an employee participating in an optional retirement program may elect to receive a cash withdrawal of such employee's accumulated account or accounts if permitted by the relevant optional retirement product and the Internal Revenue Code, as amended, and all rules, regulations, notices, and interpretations released by the United States treasury, including the internal revenue service. Any employee who receives a cash withdrawal pursuant to this section shall not be entitled to reestablish the withdrawn amount or any period of

service represented by that amount in either the optional retirement program, the retirement system, or any other Tennessee state retirement program.

SECTION 14. This act shall take effect upon becoming a law, the public welfare requiring it.