Mandatory Retirement for Public Safety Employees

Mandatory retirement is authorized under the Age Discrimination in Employment Act for public safety positions only. On the state level, T.C.A. 8-36-205 (Mandatory Retirement Age - Exceptions) provides (a) that there shall not be a mandatory age requirement for any member of the Tennessee consolidated retirement system, except for the following:

(2) A mandatory age requirement shall also apply for members who are employed as firefighters or police officers with a political subdivision participating in the Tennessee consolidated retirement system, or who have been transferred from such a position to a supervisory or administrative position within the police or fire department; provided the political subdivision has adopted a mandatory retirement age requirement pursuant to this subdivision (a)(2), and provided that the mandatory retirement of any such member does not violate the Age Discrimination in Employment Act. In cases of doubt, the respective political subdivision shall determine whether the member is employed in a position requiring the mandatory retirement of such member under the provisions of this subdivision (a)(2). In making any such determination, the political subdivision shall apply the applicable definitions contained in chapters 34-37 of this title and in the Age Discrimination in Employment Act. Any political subdivision participating in the retirement system may establish a mandatory retirement age requirement for all its firefighters and police officers and for all its employees who have been transferred from the position of a firefighter or police officer to a supervisory or administrative position within the police or fire department; provided that:

A) The terms and conditions of the requirement shall be the same for all such employees within its employ;
B) The mandatory age requirement shall not be less than sixty (60) years of age;
C) Each such employee shall be retired on the first day of the month following the month in which the employee attains the age requirement established by the political subdivision;
D) If the mandatory age requirement established by the political subdivision is less than the age requirement for receipt of old age and survivors benefits under Title II of the Federal Social Security Act (42 U.S.C. §§ 401-425), each such employee shall be entitled to the supplemental bridge benefit established pursuant to § 8-36-211; and
E) The chief governing body of the political subdivision passes a resolution authorizing the establishment of the mandatory retirement age requirement. If the mandatory age requirement established by the political subdivision is less than the age requirement for receipt of old age and survivors benefits under Title II of the Federal Social Security Act, the political subdivision must first authorize and pay for the cost of an actuarial study to determine the liability associated with the granting of the supplemental bridge benefit. All costs associated with providing the supplemental benefit shall be paid by the political subdivision and not by the state.
3) ((B) Notwithstanding any provision of this section to the contrary, any member employed in a position requiring mandatory retirement under the provisions of subdivision (a)(2) shall be retired on the first day of the month following the month in which the member attains sixty (60) years of age, unless the respective political subdivision determines that such member serves in a supervisory or administrative position which requires less than fifty percent (50%) of the member's duties to be involved in day-to-day law enforcement or firefighting activities. Upon such determination by the respective political subdivision, the member may continue in service until the first day of the month following the month in which the member attains sixty-two (62) years of age; provided such member signs a consent form wherein the member acknowledges that by continuing in service the member forfeits any rights to retirement benefits, including the supplemental bridge benefit provided for in § 8-36-211, during the period of the member's continued service. Such form must be filed with the retirement division on or before the first day of the month prior to the month in which the member attains sixty (60) years of age. Any such member who fails to file the form at the time and in the manner described by this subdivision (a)(3)(B) shall be retired on the first day of the month following the month in which the member attains sixty (60) years of age.

8-36-211 Supplemental Bridge Benefits provides a bridge payment from the date of early retirement until the employee is eligible for Medicare.

A) Any Group 1 member who retires on a service retirement allowance on or after the attainment of sixty (60) years of age with creditable service in a Group 1 position covered by the mandatory retirement provisions of § 8-36-205(a)(1) shall receive, in addition to that member's service retirement allowance, a supplemental bridge benefit calculated as follows:

1) For any such member retiring on a service retirement allowance pursuant to § 8-36-201, the supplemental bridge benefit shall be equal to three fourths of one percent (0.75%) of the member's average final compensation, multiplied by the member's years of creditable service established while the member was in a Group 1 position covered by the mandatory retirement provisions of § 8-36-205(a)(1); or
2) For any such member retiring on an early service retirement allowance pursuant to § 8-36-301, the supplemental bridge benefit shall be computed in accordance with subdivision (a)(1), but shall be reduced by four tenths of one percent (.4%) for each month by which the member's date of early service retirement precedes the member's service retirement date.

B) A supplemental bridge benefit shall further be paid to any Group 1 member who retires on a service retirement allowance on or after the attainment of age sixty (60) with creditable service in a Group 1 position covered by the mandatory retirement provisions of § 8-36-205(a)(2), if the
political subdivision for which the service was rendered adopts a mandatory retirement age requirement pursuant to § 8-36-205. The supplemental benefit shall only be paid if the mandatory retirement age requirement adopted by the political subdivision is sixty (60) years of age or older, but less than the age requirement for receipt of old age and survivors benefits under Title II of the Federal Social Security Act. The supplemental benefit shall be calculated as follows:

1) For any such member retiring on a service retirement allowance pursuant to § 8-36-201, the supplemental bridge benefit shall be equal to three fourths of one percent (0.75%) of the member's average final compensation, multiplied by the member's years of creditable service established while the member was in a Group 1 position covered by the mandatory retirement provisions of § 8-36-205(a)(2); or

2) For any such member retiring on an early service retirement allowance pursuant to § 8-36-301, the supplemental bridge benefit shall be computed in accordance with subdivision (b)(1), but shall be reduced by four tenths of one percent (.4%) for each month by which the member's date of early service retirement precedes the member's service retirement date.

C) Notwithstanding subsection (a) or (b), the supplemental bridge benefit shall not exceed twenty-two and one-half percent (22.5%) of the member's average final compensation. Such limit shall not apply to any cost-of-living increases to which the member is entitled under subsection (d).

D) Any retired member covered by the provisions of this section shall be entitled to receive an adjustment in the retiree's supplemental bridge benefit pursuant to § 8-36-701. Any such adjustment to the bridge benefit shall be computed separately from the member's service retirement allowance.

E) The provisions of §§ 8-36-102 and 8-36-208(a) shall not be construed to reduce or eliminate the supplemental bridge benefit provided by this section, nor shall the supplemental benefit be reduced as a result of any optional retirement allowance selected by the member pursuant to § 8-36-601.

F) The supplemental bridge benefit and any cost-of-living adjustments attributable to such benefit shall cease on the first day of the month following the month in which the member dies, or on the first day of the month following the month in which the member reaches the age requirement for receipt of old age and survivors benefits under Title II of the Federal Social Security Act (42 U.S.C. §§ 401-425), whichever occurs first.

G) The supplemental bridge benefit provided by this section shall apply to all current and future retired members; provided, that such benefit shall not be paid retroactively, but shall become effective on July 1, 1998 for service
covered under subsection (a), or upon the effective date of the mandatory retirement age provision for service covered under subsection (b).

H) All costs associated with providing the supplemental bridge benefit shall be paid by the respective state agencies and political subdivisions for which the service covered by this section was rendered.