

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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HOUSE BILL 381

Short Title: Retirement Fiscal Integrity Act of 2013.-AB (Public)

Sponsors: Representative Collins (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Rules, Calendar, and Operations of the House.

March 21, 2013

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR THE FISCAL INTEGRITY OF THE TEACHERS' AND
2 STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL
3 EMPLOYEES' RETIREMENT SYSTEM, AND THE CONSOLIDATED JUDICIAL
4 RETIREMENT SYSTEM, TO DIRECT THE DEPARTMENT OF STATE TREASURER
5 TO PROPOSE A TEACHERS' AND STATE EMPLOYEES' OPTIONAL RETIREMENT
6 SYSTEM, AND TO APPROPRIATE FUNDS FOR THAT SYSTEM.
7

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.(a)** G.S. 135-1(7a) reads as rewritten:

10 "(7a) a. "Compensation" shall mean all salaries and wages prior to any
11 reduction pursuant to sections 125, 401(k), 403(b), 414(h)(2), and
12 457 of the Internal Revenue Code, not including any terminal
13 payments for unused sick leave, derived from public funds which are
14 earned by a member of the Retirement System for service as an
15 employee or teacher in the unit of the Retirement System for which
16 he is performing full-time work. In addition to the foregoing,
17 "compensation" shall include:

- 18 1. Performance-based compensation (regardless of whether paid
19 in a lump sum, in periodic installments, or on a monthly
20 basis);
- 21 2. Conversion of additional benefits to salary (additional
22 benefits such as health, life, or disability plans), so long as the
23 benefits are other than mandated by State law or regulation;
- 24 3. Payment of tax consequences for benefits provided by the
25 employer, so long as they constitute an adjustment or increase
26 in salary and not a "reimbursement of expenses";
- 27 4. Payout of vacation leave so long as such payouts are
28 permitted by applicable law and regulation;
- 29 5. Employee contributions to eligible deferred compensation
30 plans; and
- 31 6. Effective July 1, 2009, payment of military differential
32 wages.

33 b. "Compensation" shall not include any payment, as determined by the
34 Board of Trustees, for the reimbursement of expenses or payments



1 for housing or any other allowances whether or not classified as
2 salary and wages. "Compensation" includes all special pay
3 contribution of annual leave made to a 401(a) Special Pay Plan for
4 the benefit of an employee. Notwithstanding any other provision of
5 this Chapter, "compensation" shall not include:

- 6 1. Supplement/allowance provided to employee to purchase
7 additional benefits such as health, life, or disability plans;
- 8 2. Travel supplement/allowance (nonaccountable allowance
9 plans);
- 10 3. Employer contributions to eligible deferred compensation
11 plans;
- 12 4. Employer-provided fringe benefits (additional benefits such
13 as health, life, or disability plans);
- 14 5. Reimbursement of uninsured medical expenses;
- 15 6. Reimbursement of business expenses;
- 16 7. Reimbursement of moving expenses;
- 17 8. Reimbursement/payment of personal expenses;
- 18 9. Incentive payments for early retirement;
- 19 10. Bonuses paid incident to retirement;
- 20 10a. Local supplementation as authorized under G.S. 7A-300.1 for
21 Judicial Department employees;
- 22 11. Contract buyout/severance payments; and
- 23 12. Payouts for unused sick leave.

- 24 c. In the event an employer reports as "compensation" payments not
25 specifically included or excluded as "compensation", such payments
26 shall be "compensation" for retirement purposes only if the employer
27 pays the Retirement System the additional actuarial liability created
28 by such payments. However, any salary or other remuneration
29 determined by Retirement Systems Division staff, upon conducting a
30 fraud investigation within the meaning of G.S. 135-1(11b), to have
31 been paid for the principal purpose of enhancing a member's benefits
32 under the plan shall be presumed not to be compensation. A
33 presumption by administrative staff that salary or other remuneration
34 was paid for the principal purpose of enhancing the member's
35 benefits under the plan may be rebutted by the member or by the
36 employer on behalf of the member. Upon receipt of sufficient
37 evidence to the contrary, the presumption that salary or other
38 remuneration was paid for the principal purpose of enhancing the
39 member's benefits under the plan may be reversed. In all such cases,
40 the decision as to whether the presumption by administrative staff
41 has been rebutted by sufficient evidence shall lie solely within the
42 discretion of the Board of Trustees. The Retirement Systems
43 Division staff may use statistical analyses to identify anomalous
44 patterns of compensation that require investigation under this
45 provision."

46 **SECTION 1.(b)** G.S. 128-21(7a) reads as rewritten:

- 47 "(7a) a. "Compensation" shall mean all salaries and wages prior to any
48 reduction pursuant to sections 125, 401(k), 403(b), 414(h)(2), and
49 457 of the Internal Revenue Code, not including any terminal
50 payments for unused sick leave, derived from public funds which are
51 earned by a member of the Retirement System for service as an

1 employee in the unit of the Retirement System for which he is
2 performing full-time work. In addition to the foregoing,
3 "compensation" shall include:

- 4 1. Performance-based compensation (regardless of whether paid
5 in a lump sum, periodic installments, or on a monthly basis);
- 6 2. Conversion of additional benefits to salary (additional
7 benefits such as health, life, or disability plans), so long as the
8 benefits are other than mandated by State law or regulation;
- 9 3. Payment of tax consequences for benefits provided by the
10 employer so long as they constitute an adjustment or increase
11 in salary and not a "reimbursement of expenses";
- 12 4. Payout of vacation leave so long as such payouts are
13 permitted by applicable law and regulation;
- 14 5. Employee contributions to eligible deferred compensation
15 plans; and
- 16 6. Effective July 1, 2009, payment of military differential
17 wages.

18 b. "Compensation" shall not include any payment, as determined by the
19 Board of Trustees, for the reimbursement of expenses or payments
20 for housing or any other allowances whether or not classified as
21 salary and wages. Notwithstanding any other provision of this
22 Chapter, "compensation" shall not include:

- 23 1. Supplement/allowance provided to employee to purchase
24 additional benefits such as health, life, or disability plans;
- 25 2. Travel supplement/allowance (nonaccountable allowance
26 plans);
- 27 3. Employer contributions to eligible deferred compensation
28 plans;
- 29 4. Employer-provided fringe benefits (additional benefits such
30 as health, life, or disability plans);
- 31 5. Reimbursement of uninsured medical expenses;
- 32 6. Reimbursement of business expenses;
- 33 7. Reimbursement of moving expenses;
- 34 8. Reimbursement/payment of personal expenses;
- 35 9. Incentive payments for early retirement;
- 36 10. Bonuses paid incident to retirement;
- 37 11. Contract buyout/severance payments; and
- 38 12. Payouts for unused sick leave.

39 c. In the event an employer reports as "compensation" payments not
40 specifically included or excluded as "compensation", such payments
41 shall be "compensation" for retirement purposes only if the employer
42 pays the Retirement System the additional actuarial liability created
43 by such payments. However, any salary or other remuneration
44 determined by Retirement Systems Division staff, upon conducting a
45 fraud investigation within the meaning of G.S. 128-1(11c), to have
46 been paid for the principal purpose of enhancing a member's benefits
47 under the plan shall be presumed not to be compensation. A
48 presumption by administrative staff that salary or other remuneration
49 was paid for the principal purpose of enhancing the member's
50 benefits under the plan may be rebutted by the member or by the
51 employer on behalf of the member. Upon receipt of sufficient

1 evidence to the contrary, the presumption that salary or other
2 remuneration was paid for the principal purpose of enhancing the
3 member's benefits under the plan may be reversed. In all such cases,
4 the decision as to whether the presumption by administrative staff
5 has been rebutted by sufficient evidence shall lie solely within the
6 discretion of the Board of Trustees. The Retirement Systems
7 Division staff may use statistical analyses to identify anomalous
8 patterns of compensation that require investigation under this
9 provision."

10 **SECTION 2.(a)** G.S. 135-5 is amended by adding a new subsection to read:

11 "(a3) Notwithstanding any other provision of this section, every service retirement
12 allowance provided under this section for members who became members on or after July 1,
13 2013, is subject to adjustment pursuant to a contribution-based benefit cap under this
14 subsection. A contribution-based benefit cap factor shall be established by the Board of
15 Trustees upon the advice of the consulting actuary. Prior to establishing a service allowance
16 under this section, the Board shall:

17 (1) Determine an amount equal to the member's contributions plus interest.

18 (2) Determine the amount of a single life annuity that is the actuarial equivalent
19 of the amount determined under subdivision (1) of this subsection, adjusted
20 for the age of the member at the time of retirement or, when appropriate, the
21 age at the time of the member's death.

22 (3) Multiply the annuity amount determined under subdivision (2) of this
23 subsection by the contribution-based benefit cap factor.

24 The product of the multiplication in subdivision (3) of this subsection is the member's
25 contribution-based benefit cap. If the retirement allowance that the member would receive
26 under this section exceeds the member's contribution-based benefit cap, the member's
27 retirement allowance shall be reduced to an amount equal to that benefit cap."

28 **SECTION 2.(b)** G.S. 128-27 is amended by adding a new section to read:

29 "(a3) Notwithstanding any other provision of this section, every service retirement
30 allowance provided under this section for members who became members on or after July 1,
31 2013, is subject to adjustment pursuant to a contribution-based benefit cap under this
32 subsection. A contribution-based benefit cap factor shall be established by the Board of
33 Trustees upon the advice of the consulting actuary. Prior to establishing a service allowance
34 under this section, the Board shall:

35 (1) Determine an amount equal to the member's contributions plus interest.

36 (2) Determine the amount of a single life annuity that is the actuarial equivalent
37 of the amount determined under subdivision (1) of this subsection, adjusted
38 for the age of the member at the time of retirement or, when appropriate, the
39 age at the time of the member's death.

40 (3) Multiply the annuity amount determined under subdivision (2) of this
41 subsection by the contribution-based benefit cap factor.

42 The product of the multiplication in subdivision (3) of this subsection is the member's
43 contribution-based benefit cap. If the retirement allowance that the member would receive
44 under this section exceeds the member's contribution-based benefit cap, the member's
45 retirement allowance shall be reduced to an amount equal to that benefit cap."

46 **SECTION 3.(a)** G.S. 135-4 reads as rewritten:

47 "(ff) Retroactive Membership Service. – A member who is reinstated to service as an
48 employee as defined in G.S. 135-1(10) or as a teacher as defined in G.S. 135-1(25)
49 retroactively to the date of prior involuntary termination (~~with backpay and benefits~~) may be
50 allowed membership service, after submitting clear and convincing evidence of the

1 reinstatement, and certification that any arrangements regarding backpay and benefits have
2 been agreed to by the employee and employer, as follows:

- 3 (1) Within 90 days of the involuntary termination, by the payment of employee
4 and employer contributions that would have been paid; or
- 5 (2) After 90 days of the involuntary termination, by the payment of the
6 employee and employer contributions that would have been paid plus
7 interest compounded annually at a rate equal to the greater of the average
8 yield on the pension accumulation fund for the preceding calendar year or
9 the actuarial investment rate-of-return assumption, as adopted by the Board
10 of Trustees.

11 Nothing contained in this subsection shall prevent an employer or member from paying all
12 or a part of the cost of the retroactive membership service; and to the extent paid by the
13 employer, the cost paid by the employer shall be credited to the pension accumulation fund;
14 and to the extent paid by the member, the cost paid by the member shall be credited to the
15 member's annuity savings account; provided, however, an employer does not discriminate
16 against any member or group of members in his employ in paying all or any part of the cost of
17 the retroactive membership service.

18 In the event a member received a return of accumulated contributions subsequent to an
19 involuntary termination as provided in G.S. 135-5(f), the member may redeposit, within 90
20 days of reinstatement retroactive to the date of prior involuntary termination, in the annuity
21 savings fund by single payment an amount equal to the total amount he previously withdrew
22 plus regular interest and restore the creditable service forfeited upon receiving his return of
23 accumulated contributions.

24 In the event that this service purchase provision is invoked in a settlement of a dispute
25 between and employee and an employer, the average final compensation used for any
26 recalculation of a retirement benefit shall not be based on hypothetical compensation for any
27 months subsequent to the date of the prior involuntary termination triggering the use of this
28 provision."

29 **SECTION 3.(b)** G.S. 128-26(v) reads as rewritten:

30 "(v) Retroactive Membership Service. – A member who is reinstated to service as an
31 employee as defined in G.S. 128-21(10) retroactively to the date of prior involuntary
32 termination (with backpay and benefits) may be allowed membership service, after submitting
33 clear and convincing evidence of the reinstatement, and certification that any arrangements
34 regarding backpay and benefits have been agreed to by the employee and employer, as follows:

- 35 (1) Within 90 days of the involuntary termination, by the payment of employee
36 and employer contributions that would have been paid; or
- 37 (2) After 90 days of the involuntary termination, by the payment of the
38 employee and employer contributions that would have been paid plus
39 interest compounded annually at a rate equal to the greater of the average
40 yield on the pension accumulation fund for the preceding calendar year or
41 the actuarial investment rate-of-return assumption, as adopted by the Board
42 of Trustees.

43 Nothing contained in this subsection shall prevent an employer or member from paying all
44 or a part of the cost of the retroactive membership service; and to the extent paid by the
45 employer, the cost paid by the employer shall be credited to the pension accumulation fund;
46 and to the extent paid by the member, the cost paid by the member shall be credited to the
47 member's annuity savings account; provided, however, an employer does not discriminate
48 against any member or group of members in his employ in paying all or any part of the cost of
49 the retroactive membership service.

50 In the event a member received a return of accumulated contributions subsequent to an
51 involuntary termination as provided in G.S. 128-27(f), the member may redeposit, within 90

1 days of reinstatement retroactive to the date of prior involuntary termination, in the annuity
2 savings fund by single payment, an amount equal to the total amount he previously withdrew
3 plus regular interest and restore the creditable service forfeited upon receiving his return of
4 accumulated contributions.

5 In the event that this service purchase provision is invoked in a settlement of a dispute
6 between and employee and an employer, the average final compensation used for any
7 recalculation of a retirement benefit shall not be based on hypothetical compensation for any
8 months subsequent to the date of the prior involuntary termination triggering the use of this
9 provision."

10 **SECTION 4.(a)** G.S. 135-3(8) reads as rewritten:

11 "(8) The provisions of this subsection (8) shall apply to any member whose
12 membership is terminated on or after July 1, 1963 and who becomes entitled
13 to benefits hereunder in accordance with the provisions hereof.

14 a. Notwithstanding any other provision of this Chapter, any member
15 ~~who became a member prior to August 1, 2011, and~~ who separates
16 from service prior to the attainment of the age of 60 years for any
17 reason other than death or retirement for disability as provided in
18 G.S. 135-5(c), after completing 15 or more years of creditable
19 service, and who leaves his total accumulated contributions in said
20 System shall have the right to retire on a deferred retirement
21 allowance upon attaining the age of 60 years; provided that such
22 member may retire only upon electronic submission or written
23 application to the Board of Trustees setting forth at what time, not
24 less than one day nor more than ~~120~~90 days subsequent to the
25 execution and filing thereof, he desires to be retired; and further
26 provided that in the case of a member who so separates from service
27 on or after July 1, 1967, or whose account is active on July 1, 1967,
28 or has not withdrawn his contributions, the aforesated requirement
29 of 15 or more years of creditable service shall be reduced to 12 or
30 more years of creditable service; and further provided that in the case
31 of a member who so separates from service on or after July 1, 1971,
32 or whose account is active on July 1, 1971, the aforesated
33 requirement of 12 or more years of creditable service shall be
34 reduced to five or more years of creditable service. Such deferred
35 retirement allowance shall be computed in accordance with the
36 service retirement provisions of this Article pertaining to a member
37 who is not a law enforcement officer or an eligible former law
38 enforcement officer. Notwithstanding the foregoing, any member
39 whose services as a teacher or employee are terminated for any
40 reason other than retirement, who becomes employed by a nonprofit,
41 nonsectarian private school in North Carolina below the college level
42 within one year after such teacher or employee has ceased to be a
43 teacher or employee, may elect to leave his total accumulated
44 contributions in the Teachers' and State Employees' Retirement
45 System during the period he is in the employment of such employer;
46 provided that he files notice thereof in writing with the Board of
47 Trustees of the Retirement System within five years after separation
48 from service as a public school teacher or State employee; such
49 member shall be deemed to have met the requirements of the above
50 provisions of this subdivision upon attainment of age 60 while in
51 such employment provided that he is otherwise vested.

b. In lieu of the benefits provided in paragraph a of this subdivision (8), any member ~~who became a member prior to August 1, 2011,~~ and who separates from service prior to the attainment of the age of 60 years, for any reason other than death or retirement for disability as provided in G.S. 135-5(c), after completing 20 or more years of creditable service, and who leaves his total accumulated contributions in said System, may elect to retire on an early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided that such member may so retire only upon electronic submission or written application to the Board of Trustees setting forth at what time, not less than one day nor more than ~~120~~ 90 days subsequent to the execution and filing thereof, he desires to be retired. Such early retirement allowance so elected shall be equal to the deferred retirement allowance otherwise payable at the attainment of the age of 60 years reduced by the percentage thereof indicated below.

Age at Retirement	Percentage Reduction
59	7
58	14
57	20
56	25
55	30
54	35
53	39
52	43
51	46
50	50

b1. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member ~~who became a member prior to August 1, 2011,~~ and who is a law-enforcement officer at the time of separation from service prior to the attainment of the age of 50 years, for any reason other than death or disability as provided in this Article, after completing 15 or more years of creditable service in this capacity immediately prior to separation from service, and who leaves his total accumulated contributions in this System may elect to retire on a deferred early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided, that the member may commence retirement only upon electronic submission or written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than ~~120~~ 90 days subsequent to the execution and filing thereof, he desires to commence retirement. The deferred early retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to law-enforcement officers.

b2. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member ~~who became a member prior to August 1, 2011,~~ and who is a law-enforcement officer at the time of separation from service prior to the attainment of the age of 55 years, for any reason other than death or disability as provided in this Article, after completing five or more years of creditable service in this capacity

1 immediately prior to separation from service, and who leaves his
2 total accumulated contributions in this System may elect to retire on
3 a deferred early retirement allowance upon attaining the age of 55
4 years or at any time thereafter; provided, that the member may
5 commence retirement only upon electronic submission or written
6 application to the Board of Trustees setting forth at what time, as of
7 the first day of a calendar month not less than one day nor more than
8 ~~120-90~~ days subsequent to the execution and filing thereof, he desires
9 to commence retirement. The deferred early retirement allowance
10 shall be computed in accordance with the service retirement
11 provisions of this Article pertaining to law-enforcement officers.

12 b3. Vested deferred retirement allowance of members retiring on or after
13 July 1, 1994. – In lieu of the benefits provided in paragraphs a. and b.
14 of this subdivision, any member ~~who became a member prior to~~
15 ~~August 1, 2011, and who separates from service prior to attainment~~
16 ~~of age 60 years, after completing 20 or more years of creditable~~
17 ~~service, and who leaves his total accumulated contributions in said~~
18 ~~System, may elect to retire on a deferred retirement allowance upon~~
19 ~~attaining the age of 50 years or any time thereafter; provided that~~
20 ~~such member may so retire only upon electronic submission or~~
21 ~~written application to the Board of Trustees setting forth at what~~
22 ~~time, not less than one day nor more than 120-90 days subsequent to~~
23 ~~the execution and filing thereof, he desires to be retired. Such~~
24 ~~deferred retirement allowance shall be computed in accordance with~~
25 ~~the service retirement provisions of this Article pertaining to a~~
26 ~~member who is not a law enforcement officer or an eligible former~~
27 ~~law enforcement officer.~~

28 b4. ~~Any member who became a member on or after August 1, 2011, and~~
29 ~~who is not a law enforcement officer and (i) separates from service~~
30 ~~prior to the attainment of the age of 60 years, after completing 25 or~~
31 ~~more years of creditable service, and who leaves the member's total~~
32 ~~accumulated contributions in said System, may elect to retire on an~~
33 ~~unreduced service retirement allowance upon attaining the age of 60~~
34 ~~years or at any time thereafter; or (ii) separates from service prior to~~
35 ~~the attainment of the age of 50 years, after completing 20 or more~~
36 ~~years of creditable service, and who leaves the member's total~~
37 ~~accumulated contributions in said System, may elect to retire on an~~
38 ~~early reduced retirement allowance upon attaining the age of 50 years~~
39 ~~or at any time thereafter; or (iii) separates from service prior to the~~
40 ~~attainment of the age of 60 years, after completing 10 or more years~~
41 ~~but less than 25 years of creditable service, and who leaves the~~
42 ~~member's total accumulated contributions in said System, may elect~~
43 ~~to retire on an early reduced retirement allowance upon attaining the~~
44 ~~age of 60 years or at any time thereafter; or (iv) separates from~~
45 ~~service prior to the attainment of the age of 65 years, after~~
46 ~~completing 10 or more years of creditable service, and who leaves~~
47 ~~the member's total accumulated contributions in said System, may~~
48 ~~elect to retire on an unreduced retirement allowance upon attaining~~
49 ~~the age of 65 years or at any time thereafter; provided that such~~
50 ~~member may so retire only upon electronic submission or written~~
51 ~~application to the Board of Trustees setting forth at what time, not~~

1 less than one day nor more than 120 days subsequent to the execution
 2 and filing thereof, the member desires to be retired.

3 ~~b5. Any member who became a member on or after August 1, 2011, who~~
 4 ~~is a law enforcement officer and (i) separates from service prior to~~
 5 ~~attainment of age 50 years, after completing 15 or more years of~~
 6 ~~creditable service in this capacity, and who leaves the member's total~~
 7 ~~accumulated contributions in said System, may elect to retire on an~~
 8 ~~early reduced retirement allowance upon attaining the age of 50 years~~
 9 ~~or any time thereafter; or (ii) separates from service prior to~~
 10 ~~attainment of age 55 years, after completing 10 or more years of~~
 11 ~~creditable service in this capacity, and who leaves the member's total~~
 12 ~~accumulated contributions in said System, may elect to retire on an~~
 13 ~~unreduced retirement allowance upon attaining the age of 55 years or~~
 14 ~~any time thereafter; provided that such member may so retire only~~
 15 ~~upon electronic submission or written application to the Board of~~
 16 ~~Trustees setting forth at what time, not less than one day nor more~~
 17 ~~than 120 days subsequent to the execution and filing thereof, the~~
 18 ~~member desires to be retired.~~

19"

20 **SECTION 4.(b)** G.S. 135-5 reads as rewritten:

21 "**§ 135-5. Benefits.**

22 (a) Service Retirement Benefits.

23 (1) ~~Any member who became a member prior to August 1, 2011,~~ may retire
 24 upon electronic submission or written application to the Board of Trustees
 25 setting forth at what time, as of the first day of a calendar month, not less
 26 than one day nor more than 120 days subsequent to the execution of and
 27 filing thereof, he desires to be retired: Provided, that the said member at the
 28 time so specified for his retirement shall have attained the age of 60 years
 29 and have at least five years of membership service or shall have completed
 30 30 years of creditable service.

31 ~~(1a) Any member who became a member on or after August 1, 2011, may retire~~
 32 ~~upon electronic submission or written application to the Board of Trustees~~
 33 ~~setting forth at what time, as of the first day of a calendar month, not less~~
 34 ~~than one day nor more than 120 days subsequent to the execution of and~~
 35 ~~filing thereof, the member desires to be retired: Provided, that the said~~
 36 ~~member at the time so specified for the member's retirement shall have~~
 37 ~~attained the age of 60 years and have at least 10 years of membership service~~
 38 ~~or shall have completed 30 years of creditable service.~~

39 (2) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.

40 (3) Any member who was in service October 8, 1981, who had attained 60 years
 41 of age, may retire upon electronic submission or written application to the
 42 Board of Trustees setting forth at what time, as of the first day of a calendar
 43 month, not less than one day nor more than 120 days subsequent to the
 44 execution and filing thereof, he desires to be retired.

45 (4) Any member who is a law enforcement officer, ~~who became a member prior~~
 46 ~~to August 1, 2011,~~ officer and who attains age 50 and completes 15 or more
 47 years of creditable service in this capacity or who attains age 55 and
 48 completes five or more years of creditable service in this capacity, may retire
 49 upon electronic submission or written application to the Board of Trustees
 50 setting forth at what time, as of the first day of a calendar month, not less
 51 than one day nor more than 120 days subsequent to the execution and filing

1 thereof, he desires to be retired; Provided, also, any member who has met the
2 conditions herein required but does not retire, and later becomes a teacher or
3 an employee other than as a law-enforcement officer shall continue to have
4 the right to commence retirement.

5 (4a) ~~Any member who is a law enforcement officer, who became a member on or~~
6 ~~after August 1, 2011, and who attains age 50 and completes 15 or more years~~
7 ~~of creditable service in this capacity or who attains age 55 and completes 10~~
8 ~~or more years of creditable service in this capacity, may retire upon~~
9 ~~electronic submission or written application to the Board of Trustees setting~~
10 ~~forth at what time, as of the first day of a calendar month, not less than one~~
11 ~~day nor more than 120 days subsequent to the execution and filing thereof,~~
12 ~~the member desires to be retired; Provided, also, any member who has met~~
13 ~~the conditions herein required but does not retire, and later becomes a~~
14 ~~teacher or an employee other than as a law enforcement officer shall~~
15 ~~continue to have the right to commence retirement.~~

16 (5) Any member who is eligible for and is being paid a benefit under the
17 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106 shall be
18 deemed a member in service and may not retire under the provisions of this
19 section. Any member who has made electronic submission or written
20 application for long-term or extended short-term benefits under the
21 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106, and
22 who has been rejected by the Plan's Medical Board for a long-term or
23 extended short-term benefit shall have 90 days from the date of notification
24 of the rejection to convert his application to an early or service retirement
25 application, provided that the member meets the eligibility requirements,
26 effective the first day of the month following the month in which short-term
27 disability benefits ended or the first day of the month following the month in
28 which any salary continuation as may be provided in G.S. 135-104 ended,
29 whichever is later.

30 (a1) Early Service Retirement Benefits. – Any member may retire and receive a reduced
31 retirement allowance upon electronic submission or written application to the Board of Trustees
32 setting forth at what time, as of the first day of a calendar month, not less than one day nor
33 more than 120 days subsequent to the execution of and filing thereof, he desires to be retired:
34 Provided, that the said member at the time so specified for his retirement shall have attained the
35 age of 50 years and have at least 20 years of creditable service.

36 ~~(a2) Early Service Retirement Benefits. — Any member who became a member on or~~
37 ~~after August 1, 2011, who is a law enforcement officer may retire and receive a reduced~~
38 ~~retirement allowance upon electronic submission or written application to the Board of Trustees~~
39 ~~setting forth at what time, as of the first day of a calendar month, not less than one day nor~~
40 ~~more than 120 days subsequent to the execution of and filing thereof, the member desires to be~~
41 ~~retired; however, the member at the time so specified for the member's retirement shall have~~
42 ~~attained the age of 50 years and have at least 15 years of creditable service.~~

43 ...

44 (b19) Service Retirement Allowance of Members ~~Who Became a Member Prior to August~~
45 ~~1, 2011,~~Retiring on or After July 1, 2002. – Upon retirement from service in accordance with
46 subdivision (a)(1), ~~(a)(4), or~~subsection (a) or (a1) of this section, on or after July 1, 2002, a
47 member shall receive the following service retirement allowance:

48 (1) A member who is a law enforcement officer or an eligible former law
49 enforcement officer shall receive a service retirement allowance computed
50 as follows:

- 1 a. If the member's service retirement date occurs on or after his 55th
2 birthday, and completion of five years of creditable service as a law
3 enforcement officer, or after the completion of 30 years of creditable
4 service, the allowance shall be equal to one and eighty-two
5 hundredths percent (1.82%) of his average final compensation,
6 multiplied by the number of years of his creditable service.
- 7 b. If the member's service retirement date occurs on or after his 50th
8 birthday and before his 55th birthday with 15 or more years of
9 creditable service as a law enforcement officer and prior to the
10 completion of 30 years of creditable service, his retirement allowance
11 shall be equal to the greater of:
- 12 1. The service retirement allowance payable under
13 G.S. 135-5(b19)(1)a. reduced by one-third of one percent ($1/3$
14 of 1%) thereof for each month by which his retirement date
15 precedes the first day of the month coincident with or next
16 following the month the member would have attained his
17 55th birthday; or
- 18 2. The service retirement allowance as computed under
19 G.S. 135-5(b19)(1)a. reduced by five percent (5%) times the
20 difference between 30 years and his creditable service at
21 retirement.
- 22 (2) A member who is not a law enforcement officer or an eligible former law
23 enforcement officer shall receive a service retirement allowance computed
24 as follows:
- 25 a. If the member's service retirement date occurs on or after his 65th
26 birthday upon the completion of five years of membership service or
27 after the completion of 30 years of creditable service or on or after
28 his 60th birthday upon the completion of 25 years of creditable
29 service, the allowance shall be equal to one and eighty-two
30 hundredths percent (1.82%) of his average final compensation,
31 multiplied by the number of years of creditable service.
- 32 b. If the member's service retirement date occurs after his 60th birthday
33 and before his 65th birthday and prior to his completion of 25 years
34 or more of creditable service, his retirement allowance shall be
35 computed as in G.S. 135-5(b19)(2)a. but shall be reduced by
36 one-quarter of one percent ($1/4$ of 1%) thereof for each month by
37 which his retirement date precedes the first day of the month
38 coincident with or next following his 65th birthday.
- 39 c. If the member's early service retirement date occurs on or after his
40 50th birthday and before his 60th birthday and after completion of 20
41 years of creditable service but prior to the completion of 30 years of
42 creditable service, his early service retirement allowance shall be
43 equal to the greater of:
- 44 1. The service retirement allowance as computed under
45 G.S. 135-5(b19)(2)a. but reduced by the sum of five-twelfths
46 of one percent ($5/12$ of 1%) thereof for each month by which
47 his retirement date precedes the first day of the month
48 coincident with or next following the month the member
49 would have attained his 60th birthday, plus one-quarter of one
50 percent ($1/4$ of 1%) thereof for each month by which his 60th

- 1 birthday precedes the first day of the month coincident with
2 or next following his 65th birthday; or
- 3 2. The service retirement allowance as computed under
4 G.S. 135-5(b19)(2)a. reduced by five percent (5%) times the
5 difference between 30 years and his creditable service at
6 retirement; or
- 7 3. If the member's creditable service commenced prior to July 1,
8 1994, the service retirement allowance equal to the actuarial
9 equivalent of the allowance payable at the age of 60 years as
10 computed in G.S. 135-5(b19)(2)b.
- 11 d. Notwithstanding the foregoing provisions, any member whose
12 creditable service commenced prior to July 1, 1963, shall not receive
13 less than the benefit provided by G.S. 135-5(b).
- 14 ~~(b20) Service Retirement Allowance of Members Who Became a Member On or After~~
15 ~~August 1, 2011. Upon retirement from service in accordance with subdivision (a)(1a) or~~
16 ~~(a)(4a) or subsection (a1) or (a2) of this section, a member shall receive the following service~~
17 ~~retirement allowance:~~
- 18 (1) ~~A member who is a law enforcement officer or an eligible former law~~
19 ~~enforcement officer shall receive a service retirement allowance computed~~
20 ~~as follows:~~
- 21 a. ~~If the member's service retirement date occurs on or after the~~
22 ~~member's 55th birthday, and completion of 10 years of creditable~~
23 ~~service as a law enforcement officer, or after the completion of 30~~
24 ~~years of creditable service, the allowance shall be equal to one and~~
25 ~~eighty two hundredths percent (1.82%) of the member's average final~~
26 ~~compensation, multiplied by the number of years of his creditable~~
27 ~~service.~~
- 28 b. ~~If the member's service retirement date occurs on or after the~~
29 ~~member's 50th birthday and before the member's 55th birthday with~~
30 ~~15 or more years of creditable service as a law enforcement officer~~
31 ~~and prior to the completion of 30 years of creditable service, the~~
32 ~~member's retirement allowance shall be equal to the greater of:~~
- 33 1. ~~The service retirement allowance payable under~~
34 ~~G.S. 135-5(b20)(1)a. reduced by one third of one percent (1/3~~
35 ~~of 1%) thereof for each month by which the member's~~
36 ~~retirement date precedes the first day of the month coincident~~
37 ~~with or next following the month the member would have~~
38 ~~attained the member's 55th birthday; or~~
- 39 2. ~~The service retirement allowance as computed under~~
40 ~~G.S. 135-5(b20)(1)a. reduced by five percent (5%) times the~~
41 ~~difference between 30 years and the member's creditable~~
42 ~~service at retirement.~~
- 43 (2) ~~A member who is not a law enforcement officer or an eligible former law~~
44 ~~enforcement officer shall receive a service retirement allowance computed~~
45 ~~as follows:~~
- 46 a. ~~If the member's service retirement date occurs on or after his 65th~~
47 ~~birthday upon the completion of 10 years of membership service or~~
48 ~~after the completion of 30 years of creditable service or on or after~~
49 ~~the member's 60th birthday upon the completion of 25 years of~~
50 ~~creditable service, the allowance shall be equal to one and eighty two~~
51 ~~hundredths percent (1.82%) of the member's average final~~

1 compensation, multiplied by the number of years of creditable
2 service.

3 b. ~~If the member's service retirement date occurs after the member's~~
4 ~~60th birthday and before the member's 65th birthday and prior to the~~
5 ~~member's completion of 25 years or more of creditable service, the~~
6 ~~member's retirement allowance shall be computed as in~~
7 ~~G.S. 135-5(b20)(2)a. but shall be reduced by one-fourth of one~~
8 ~~percent (1/4 of 1%) thereof for each month by which the member's~~
9 ~~retirement date precedes the first day of the month coincident with or~~
10 ~~next following the member's 65th birthday.~~

11 e. ~~If the member's early service retirement date occurs on or after the~~
12 ~~member's 50th birthday and before the member's 60th birthday and~~
13 ~~after completion of 20 years of creditable service but prior to the~~
14 ~~completion of 30 years of creditable service, the member's early~~
15 ~~service retirement allowance shall be equal to the greater of:~~

16 1. ~~The service retirement allowance as computed under~~
17 ~~G.S. 135-5(b20)(2)a. but reduced by the sum of five twelfths~~
18 ~~of one percent (5/12 of 1%) thereof for each month by which~~
19 ~~the member's retirement date precedes the first day of the~~
20 ~~month coincident with or next following the month the~~
21 ~~member would have attained his 60th birthday, plus~~
22 ~~one-fourth of one percent (1/4 of 1%) thereof for each month~~
23 ~~by which his 60th birthday precedes the first day of the month~~
24 ~~coincident with or next following the member's 65th birthday;~~
25 ~~or~~

26 2. ~~The service retirement allowance as computed under~~
27 ~~G.S. 135-5(b20)(2)a. reduced by five percent (5%) times the~~
28 ~~difference between 30 years and the member's creditable~~
29 ~~service at retirement.~~

30 ...

31 (m) Survivor's Alternate Benefit. – Upon the death of a member in service, ~~who became~~
32 ~~a member prior to August 1, 2011,~~ the beneficiary designated to receive a return of accumulated
33 contributions shall have the right to elect to receive in lieu thereof the reduced retirement
34 allowance provided by Option 2 of subsection (g) above computed by assuming that the
35 member had retired on the first day of the month following the date of his death, provided that
36 all four of the following conditions apply:

37 (1) a. The member had attained such age and/or creditable service to be
38 eligible to commence retirement with an early or service retirement
39 allowance, or

40 b. The member had obtained 20 years of creditable service in which
41 case the retirement allowance shall be computed in accordance with
42 G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c., notwithstanding the
43 requirement of obtaining age 50, or

44 b1. The member was a law enforcement officer who had obtained 15
45 years of service as a law enforcement officer and was killed in the
46 line of duty, in which case the retirement allowance shall be
47 computed in accordance with G.S. 135-5(b19)(1)b., notwithstanding
48 the requirement of obtaining age 50.

49 c. Repealed by Session Laws 2010-72, s. 2(a), effective July 1, 2010.

50 (2) At the time of the member's death, one and only one beneficiary is eligible to
51 receive a return of his accumulated contributions.

- 1 (3) The member had not instructed the Board of Trustees in writing that he did
2 not wish the provisions of this subsection to apply.
3 (4) The member had not commenced to receive a retirement allowance as
4 provided under this Chapter.

5 For the purpose of this benefit, a member is considered to be in service at the date of his
6 death if his death occurs within 180 days from the last day of his actual service. The last day of
7 actual service shall be determined as provided in subsection (l) of this section. Upon the death
8 of a member in service, the surviving spouse may make all purchases for creditable service as
9 provided for under this Chapter for which the member had made application in writing prior to
10 the date of death, provided that the date of death occurred prior to or within 60 days after
11 notification of the cost to make the purchase. The term "in service" as used in this subsection
12 includes a member in receipt of a benefit under the Disability Income Plan as provided in
13 Article 6 of this Chapter.

14 Notwithstanding the foregoing, a member who is in receipt of Workers' Compensation
15 during the period for which the member would have otherwise been eligible to receive
16 short-term benefits, as provided in G.S. 135-105, and who dies on or after 181 days from the
17 last day of the member's actual service but on or before the date the benefits as provided in
18 G.S. 135-105 would have ended, shall be considered in service at the time of the member's
19 death for the purpose of this benefit.

20 For the purpose of calculating this benefit any terminal payouts made after the date of death
21 that meet the definition of compensation shall be credited to the month prior to the month of
22 death. These terminal payouts do not include salary or wages paid for work performed during
23 the month of death.

24 ...

25 ~~(m3) Survivor's Alternate Benefit.— Upon the death of a member in service who became~~
26 ~~a member on or after August 1, 2011, the principal beneficiary designated to receive a return of~~
27 ~~accumulated contributions shall have the right to elect to receive in lieu thereof the reduced~~
28 ~~retirement allowance provided by Option 2 of subsection (g) of this section computed by~~
29 ~~assuming that the member had retired on the first day of the month following the date of the~~
30 ~~member's death, provided that the following conditions apply:~~

- 31 (1) ~~a. The member had attained such age and/or creditable service to be~~
32 ~~eligible to commence retirement with an early or service retirement~~
33 ~~allowance.~~
34 ~~b. The member had obtained 20 years of creditable service in which~~
35 ~~case the retirement allowance shall be computed in accordance with~~
36 ~~G.S. 135-5(b20)(1)b. or G.S. 135-5(b20)(2)c., notwithstanding the~~
37 ~~requirement of obtaining age 50,~~
38 ~~b1. The member was a law enforcement officer who had attained 15~~
39 ~~years of service as a law enforcement officer and was killed in the~~
40 ~~line of duty, in which case the retirement allowance shall be~~
41 ~~computed in accordance with G.S. 135-5(b20)(1)b., notwithstanding~~
42 ~~the requirement of attaining age 50.~~
43 ~~e. The member had not commenced to receive a retirement allowance~~
44 ~~as provided under this Chapter.~~
45 (2) ~~At the time of the member's death, one and only one person is eligible to~~
46 ~~receive a return of the member's contributions.~~
47 (3) ~~The member had not instructed the Board of Trustees in writing that the~~
48 ~~member did not wish the provisions of this subsection to apply.~~

49 ~~For the purpose of this benefit, a member is considered to be in service at the date of the~~
50 ~~member's death if the member's death occurs within 180 days from the last day of the member's~~
51 ~~actual service. The last day of actual service shall be determined as provided in subdivision (1)~~

1 of this subsection. Upon the death of a member in service, the surviving spouse may make all
2 purchases for creditable service as provided for under this Chapter for which the member had
3 made application in writing prior to the date of death, provided that the date of death occurred
4 prior to or within 60 days after notification of the cost to make the purchase. The term, "in
5 service" as used in this subsection, includes a member in receipt of a benefit under the
6 Disability Income Plan as provided in Article 6 of this Chapter.

7 Notwithstanding the foregoing, a member who is in receipt of Workers' Compensation
8 during the period for which the member would have otherwise been eligible to receive
9 short term benefits, as provided in G.S. 135-105, and who dies on or after 181 days from the
10 last day of the member's actual service but on or before the date the benefits as provided in
11 G.S. 135-105 would have ended, shall be considered in service at the time of the member's
12 death for the purpose of this benefit.

13 For the purpose of calculating this benefit, any terminal payouts made after the date of
14 death that meet the definition of compensation shall be credited to the month prior to the month
15 of death. These terminal payouts do not include salary or wages paid for work performed
16 during the month of death.

17"

18 **SECTION 4.(c)** G.S. 135-57 reads as rewritten:

19 **"§ 135-57. Service retirement.**

20 (a) Any member on or after January 1, 1974, who became a member prior to August 1,
21 2011, and who has attained his fiftieth birthday and five years of membership service may retire
22 upon electronic submission or written application to the board of trustees setting forth at what
23 time, as of the first day of a calendar month, not less than one day nor more than 120 days
24 subsequent to the execution and filing thereof, he desires to be retired.

25 (a1) Any member who became a member on or after August 1, 2011, and who has
26 attained the member's fiftieth birthday and 10 years of membership service may retire upon
27 electronic submission or written application to the Board of Trustees setting forth at what time,
28 as of the first day of a calendar month, not less than one day nor more than 120 days
29 subsequent to the execution and filing thereof, the member desires to be retired.

30 (b) Any member who is a justice or judge of the General Court of Justice shall be
31 automatically retired as of the first day of the calendar month coinciding with or next following
32 the later of January 1, 1974, or his attainment of his seventy-second birthday; provided,
33 however, that no judge who is a member on January 1, 1974, shall be forced to retire under the
34 provisions of this subsection at an earlier date than the last day that he is permitted to remain in
35 office under the provisions of G.S. 7A-4.20.

36 (c) Any member who terminates service on or after January 1, 1974, having
37 accumulated five or more years of creditable service and having become a member prior to
38 August 1, 2011, may retire under the provisions of subsection (a) above, provided that he shall
39 not have withdrawn his accumulated contributions prior to the effective date of his retirement,
40 and the requirement of subsection (a) that the member be in service shall not apply.

41 (c1) Any member having accumulated 10 or more years of creditable service and having
42 become a member on or after August 1, 2011, may retire under the provisions of subsection
43 (a1) above, provided that the member shall not have withdrawn the member's accumulated
44 contributions prior to the effective date of the member's retirement, and the requirement of
45 subsection (a1) that the member be in service shall not apply.

46 (d) Any member who was in service October 8, 1981, who had attained 50 years of age,
47 may retire upon electronic submission or written application to the board of trustees setting
48 forth at what time, as of the first day of a calendar month, not less than one day nor more than
49 120 days subsequent to the execution and filing thereof, he desires to be retired."

50 **SECTION 4.(d)** G.S. 143-166.41 reads as rewritten:

51 **"§ 143-166.41. Special separation allowance.**

1 (a) Notwithstanding any other provision of law, every sworn law-enforcement officer
2 as defined by G.S. 135-1(11c) or G.S. 143-166.30(a)(4) employed by a State department,
3 agency, or institution ~~prior to August 1, 2011~~, and who qualifies under this section shall receive,
4 beginning in the month in which he retires on a basic service retirement under the provisions of
5 ~~G.S. 135-5(a)~~, G.S. 135-5(a) or G.S. 143-166.30, an annual separation allowance equal to
6 eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of
7 compensation most recently applicable to him for each year of creditable service. The
8 allowance shall be paid in equal installments on the payroll frequency used by the employer. To
9 qualify for the allowance the officer shall:

- 10 (1) Have (i) completed 30 or more years of creditable service or, (ii) have
11 attained 55 years of age and completed five or more years of creditable
12 service; and
- 13 (2) Not have attained 62 years of age; and
- 14 (3) Have completed at least five years of continuous service as a law
15 enforcement officer as herein defined immediately preceding a service
16 retirement. Any break in the continuous service required by this subsection
17 because of disability retirement or disability salary continuation benefits
18 shall not adversely affect an officer's qualification to receive the allowance,
19 provided the officer returns to service within 45 days after the disability
20 benefits cease and is otherwise qualified to receive the allowance.

21 ~~(a1) Notwithstanding any other provision of law, every sworn law enforcement officer~~
22 ~~as defined by G.S. 135-1(11e) or G.S. 143-166.30(a)(4) employed by a State department,~~
23 ~~agency, or institution on or after August 1, 2011, and who qualifies under this section shall~~
24 ~~receive, beginning in the month in which the member retires on a basic service retirement under~~
25 ~~the provisions of G.S. 135-5(a), an annual separation allowance equal to eighty five hundredths~~
26 ~~percent (0.85%) of the annual equivalent of the base rate of compensation most recently~~
27 ~~applicable to him for each year of creditable service. The allowance shall be paid in equal~~
28 ~~installments on the payroll frequency used by the employer. To qualify for the allowance, the~~
29 ~~officer shall:~~

- 30 ~~(1) Have (i) completed 30 or more years of creditable service or (ii) attained 55~~
31 ~~years of age and completed 10 or more years of creditable service; and~~
- 32 ~~(2) Not have attained 62 years of age; and~~
- 33 ~~(3) Have completed at least 10 years of continuous service as a law enforcement~~
34 ~~officer as herein defined immediately preceding a service retirement. Any~~
35 ~~break in the continuous service required by this subsection because of~~
36 ~~disability retirement or disability salary continuation benefits shall not~~
37 ~~adversely affect an officer's qualification to receive the allowance, provided~~
38 ~~the officer returns to service within 45 days after the disability benefits cease~~
39 ~~and is otherwise qualified to receive the allowance.~~

40"

41 **SECTION 5.** The Department of State Treasurer shall, by May 1, 2014, propose a
42 legal and administrative framework to the General Assembly for an optional retirement plan
43 that may be elected in lieu of participation in the Teachers' and State Employees' Retirement
44 System established in Chapter 135 of the General Statutes. This framework shall be designed to
45 comply with the requirements of the Internal Revenue Code of 1986, as amended, and shall
46 identify the persons or entities that shall serve as fiduciaries under the plan. The plan
47 established for this purpose shall be known as the "Teachers' and State Employees' Optional
48 Retirement System of North Carolina." The plan shall be the sole alternative plan available to
49 employees eligible for participation in the Retirement System for Teachers and State
50 Employees established in Chapter 135 of the General Statutes.

1 **SECTION 6.** There is appropriated from the General Fund to the Department of
2 State Treasurer the sum of one million dollars (\$1,000,000) for the 2013-2014 fiscal year and
3 the sum of three million dollars (\$3,000,000) for the 2014-2015 fiscal year to provide the
4 start-up costs for establishment of the Teachers' and State Employees' Optional Retirement
5 System. These funds shall not revert at the end of the fiscal year but shall remain available to
6 the Department to provide these start-up costs. The funds shall be held in an account by the
7 Department of State Treasurer until such time as the funds are expended for the exclusive
8 benefit of future participants in the Teachers' and State Employees' Optional Retirement
9 System.

10 **SECTION 7.** There is appropriated from the General Fund to the Department of
11 State Treasurer the sum of three hundred ten thousand dollars (\$310,000) for the 2013-2014
12 fiscal year and the sum of six hundred fifteen thousand dollars (\$615,000) for the 2014-2015
13 fiscal year to establish seven positions to staff the start-up of the Teachers' and State
14 Employees' Optional Retirement System.

15 **SECTION 8.** This act becomes effective July 1, 2013.