

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 274  
Committee Substitute Favorable 3/31/15

Short Title: Retirement Technical Corrections Act of 2015.-AB

(Public)

Sponsors:

Referred to:

March 19, 2015

A BILL TO BE ENTITLED

AN ACT TO ENACT THE RETIREMENT TECHNICAL CORRECTIONS ACT OF 2015.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 135-1(10) reads as rewritten:

"(10) "Employee" shall mean all full-time employees, agents or officers of the State of North Carolina or any of its departments, bureaus and institutions other than educational, whether such employees are elected, appointed or employed: Provided that the term "employee" shall not include any person who is a member of the Consolidated Judicial Retirement System, any member of the General Assembly or any part-time or temporary employee. Notwithstanding any other provision of law, "employee" shall include all employees of the General Assembly except participants in the Legislative Intern Program, pages, and beneficiaries in receipt of a monthly retirement allowance under this Chapter who are reemployed on a temporary basis. "Employee" also includes any participant whose employment is interrupted by reason of service in the Uniformed Services, as that term is defined in section 4303(16) of the Uniformed Services Employment and Reemployment Rights Act, Public Law 103-353, if that participant was an employee at the time of the interruption; if the participant does not return immediately after that service to employment with a covered employer in this System, then the participant shall be deemed "in service" until the date on which the participant was first eligible to be separated or released from his or her involuntary military service. In all cases of doubt, the Board of Trustees shall determine whether any person is an employee as defined in this Chapter. "Employee" shall also mean every full-time civilian employee of the North Carolina National Guard who is employed pursuant to section 709 of Title 32 of the United States Code and paid from federal appropriated funds, but held by the federal authorities not to be a federal employee: Provided, however, that the authority or agency paying the salaries of such employees shall deduct or cause to be deducted from each employee's salary the employee's contribution in accordance with applicable provisions of G.S. 135-8 and remit the same, either directly or indirectly, to the Retirement System; coverage of employees described in this sentence shall commence upon the first day of the calendar year or fiscal year, whichever is earlier, next following the date of execution of an agreement between the Secretary of Defense of the United States and the Adjutant General of the State acting



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1 for the Governor in behalf of the State, but no credit shall be allowed  
2 pursuant to this sentence for any service previously rendered in the  
3 above-described capacity as a civilian employee of the North Carolina  
4 National Guard: Provided, further, that the Adjutant General, in the Adjutant  
5 General's discretion, may terminate the Retirement System coverage of the  
6 above-described North Carolina National Guard employees if a federal  
7 retirement system is established for such employees and the Adjutant  
8 General elects to secure coverage of such employees under such federal  
9 retirement system. Any full-time civilian employee of the North Carolina  
10 National Guard described above who is now or hereafter may become a  
11 member of the Retirement System may secure Retirement System credit for  
12 such service as a North Carolina National Guard civilian employee for the  
13 period preceding the time when such employees became eligible for  
14 Retirement System coverage by paying to the Retirement System an amount  
15 equal to that which would have constituted employee contributions if the  
16 employee had been a member during the years of ineligibility, plus interest.  
17 Employees of State agencies, departments, institutions, boards, and  
18 commissions who are employed in permanent job positions on a recurring  
19 basis ~~and who must work at least 30 or more~~ hours per week for nine or more  
20 months per calendar year ~~are in order to be covered by the provisions of this~~  
21 subdivision. On and after August 1, 2001, a person who is a nonimmigrant  
22 alien and who otherwise meets the requirements of this subdivision shall not  
23 be excluded from the definition of "employee" solely because the person  
24 holds a temporary or time-limited visa."

25 **SECTION 2.** G.S. 135-106(b) reads as rewritten:

26 "(b) After the commencement of benefits under this section, the benefits payable under  
27 the terms of this section during the first 36 months of the long-term disability period shall be  
28 equal to sixty-five percent (65%) of 1/12th of the annual base rate of compensation last payable  
29 to the participant or beneficiary prior to the beginning of the short-term disability period as may  
30 be adjusted for percentage increases as provided under G.S. 135-108, plus sixty-five percent  
31 (65%) of 1/12th of the annual longevity payment to which the participant or beneficiary would  
32 be eligible, to a maximum of three thousand nine hundred dollars (\$3,900) per month reduced  
33 by any primary Social Security disability benefits to which the beneficiary may be entitled,  
34 effective as of the first of the month following the month of initial entitlement, and by monthly  
35 payments for Workers' Compensation to which the participant or beneficiary may be entitled.  
36 When primary Social Security disability benefits are increased by cost-of-living adjustments,  
37 the increased reduction shall be applied in the first month following the month in which the  
38 member becomes entitled to the increased Social Security benefit. The monthly benefit shall be  
39 further reduced by the amount of any monthly payments from the federal Department of  
40 Veterans Affairs, any other federal agency or any payments made under the provisions of  
41 G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same  
42 disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00)  
43 a month. However, a disabled participant may elect to receive any salary continuation as  
44 provided in G.S. 135-104 in lieu of long-term disability benefits; provided such election shall  
45 not extend the first 36 consecutive calendar months of the long-term disability period. An  
46 election to receive any salary continuation for any part of any given day shall be in lieu of any  
47 long-term benefit payable for that day, provided further, any lump-sum payout for vacation  
48 leave shall be treated as if the beneficiary or participant had exhausted the leave and shall be in  
49 lieu of any long-term benefit otherwise payable. Provided that, in any event, a beneficiary's  
50 benefit shall be reduced during the first 36 months of the long-term disability period by an  
51 amount, as determined by the Board of Trustees, equal to a primary Social Security retirement

1 benefit to which the beneficiary might be ~~entitled~~, entitled, effective as of the first of the month  
2 following the month of initial entitlement.

3 After 36 months of long-term disability, no further benefits are payable under the terms of  
4 this section unless the member has been approved and is in receipt of primary Social Security  
5 disability benefits. In that case the benefits payable shall be equal to sixty-five percent (65%) of  
6 1/12th of the annual base rate of compensation last payable to the participant or beneficiary  
7 prior to the beginning of the short-term disability period as may be adjusted for percentage  
8 increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual  
9 longevity payment to which the participant or beneficiary would be eligible, to a maximum of  
10 three thousand nine hundred dollars (\$3,900) per month reduced by the primary Social Security  
11 disability benefits to which the beneficiary may be entitled, effective as of the first of the month  
12 following the month of initial entitlement, and by monthly payments for Workers'  
13 Compensation to which the participant or beneficiary may be entitled. When primary Social  
14 Security disability benefits are increased by cost-of-living adjustments, the increased reduction  
15 shall be applied in the first month following the month in which the member becomes entitled  
16 to the increased Social Security benefit. The monthly benefit shall be further reduced by the  
17 amount of any monthly payments from the federal Department of Veterans Affairs, for  
18 payments from any other federal agency, or for any payments made under the provisions of  
19 G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same  
20 disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00)  
21 a month.

22 Notwithstanding the foregoing, the long-term disability benefit is payable so long as the  
23 beneficiary is disabled and is in receipt of a primary Social Security disability benefit until the  
24 earliest date at which the beneficiary is eligible for an unreduced service retirement allowance  
25 from the Retirement System, at which time the beneficiary would receive a retirement  
26 allowance calculated on the basis of the beneficiary's average final compensation at the time of  
27 disability as adjusted to reflect compensation increases subsequent to the time of disability and  
28 the creditable service accumulated by the beneficiary, including creditable service while in  
29 receipt of benefits under the Plan. In the event the beneficiary has not been approved and is not  
30 in receipt of a primary Social Security disability benefit, the long-term disability benefit shall  
31 cease after the first 36 months of the long-term disability period. When such a long-term  
32 disability recipient begins receiving this unreduced service retirement allowance from the  
33 System, that recipient shall not be subject to the six-month waiting period set forth in  
34 G.S. 135-1(20). However, a beneficiary shall be entitled to a restoration of the long-term  
35 disability benefit in the event the Social Security Administration grants a retroactive approval  
36 for primary Social Security disability benefits with a benefit effective date within the first 36  
37 months of the long-term disability period. In such event, the long-term disability benefit shall  
38 be restored retroactively to the date of cessation."

39 **SECTION 3.(a)** G.S. 135-151(e) reads as rewritten:

40 "(e) Treatment of Unused Assets. – Any assets of the QEBA plan not used to pay  
41 benefits in the current ~~fi~~iscal calendar year shall be used for payment of the administrative  
42 expenses of the QEBA for the current or future ~~fi~~iscal calendar years or shall be paid to the  
43 Retirement System as an additional employer contribution."

44 **SECTION 3.(b)** G.S. 128-38.10(f) reads as rewritten:

45 "(f) Treatment of Unused Assets. – Any assets of the QEBA plan not used to pay  
46 benefits in the current ~~fi~~iscal calendar year shall be used for payment of the administrative  
47 expenses of the QEBA for the current or future ~~fi~~iscal calendar years or shall be paid to the  
48 Retirement System as an additional employer contribution."

49 **SECTION 4.** G.S. 128-29.1 is repealed.

50 **SECTION 5.** G.S. 114-2.4A(c) reads as rewritten:

51 "(c) Exception. – Subsections (b) and (e) of this section shall not apply to ~~funds to~~ to:

1           (1) Funds received by the Department of Health and Human Services to the  
2           extent those funds represent the recovery of previously expended Medicaid  
3           funds.

4           (2) Funds received by the Escheat Fund and benefit plans administered by the  
5           Department of State Treasurer."

6           **SECTION 6.** G.S. 135-4(g) reads as rewritten:

7           "(g) Teachers and other State employees who served in the uniformed services as  
8 defined in the Uniformed Services Employment and Reemployment Rights Act of 1994, 38  
9 U.S.C. § 4303, who were not dishonorably discharged, and who, after being honorably  
10 discharged, who returned to the service of the State within a period of two years from date of  
11 discharge shall be credited with prior service for such period of service in the uniformed  
12 services for the maximum period that they are entitled to reemployment under the Uniformed  
13 Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4301, et seq., or  
14 other federal law, and the salary or compensation of such a teacher or State employee during  
15 that period of service is deemed to be that salary or compensation the employee would have  
16 received but for the period of service had the employee remained continuously employed, if the  
17 determination of that salary or compensation is reasonably certain. If the determination of the  
18 salary or compensation is not reasonably certain, then it is deemed to be that employee's  
19 average rate of compensation during the 12-month period immediately preceding the period of  
20 service. When a member who has served in the uniformed services returns to work in  
21 compliance with the conditions of this subsection, that member's employer shall remit to the  
22 System all employer and employee contributions for the full period of that member's military  
23 service."

24           **SECTION 7.** This act becomes effective July 1, 2015.