

February 15, 2007

H 237. RETIREES RETURNING TO WORK. Filed 2/15/07. *TO AMEND THE LAW AFFECTING RETIREES RETURNING TO WORK.* Rewrites GS 135-1(20) to redefine retirement for purposes of the Teachers' and State Employees' Retirement System (TSERS) to distinguish (1) members who have reached normal retirement age and (2) members who have not reached normal retirement age. Normal retirement age is defined in new subdivision GS 135-1(14a) as 60 years or older with 25 or more years of creditable service or 65 years or older with 5 or more years of service. Specifies that for a member reaching normal retirement age retirement means the commencement of a retirement allowance under TSERS but that for a member not having reached normal retirement age as defined in this Article, there are two additional requirements: There must also be a complete separation from active service with no express or implied agreement to return to service and the member may not engage in any type of state employment during the 25 working days immediately following the member's effective date of retirement plus the longer of the number of weeks during each of the previous two years in which there were no paid days of employment ("no-employment period"). Previously, all retirees were subject to a no-employment period of six months and were required to have no intent or agreement with the employer to return to service after the six-month period.

GS 135-3(8)c. permits a retiree on an early or service retirement allowance to return to work for a TSERS employer on a part-time, interim, temporary, or contractual basis, but the retirement allowance is suspended each year if the retiree earns the greater of \$20,000 or 50% of the retiree's salary during the 12 months before retirement. The suspension of the retirement allowance is known as the "salary cap." This act amends GS 135-3(8)c. to provide that the retiree's allowance is also suspended if the retiree's earnings in any month exceed 60% of the retirees average monthly compensation during the 12 months before retirement (excluding terminal payments). There is an exception to this new cap for retirees whose employment is for a fixed period of no more than six months and is preceded by at least six months of continuous separation from active service.

The act further amends the part of GS 135-3(8)c. that provides an exemption from the salary cap for public school teachers to change the no-employment period from six months to the period describe in GS 135-1(20), summarized above. The public school teacher exemption was set to sunset June 30, 2007; this act intends to delete the sunset, effective June 30, 2007.

Makes conforming changes to GS 115C-325(a)(5a) (definition of *retired teacher*) to conform to the definition of retirement and the no-employment period in GS 135-1(20).

Participants in The University of North Carolina phased retirement program had been exempted from the no-employment restrictions of GS 135-1(3), with a sunset of June 30, 2010. This act amends Section 22.21 of SL 2006-66 with respect to the UNC phased retirement program to (1) make the exemption for the phased retirement program permanent; and (2) require UNC to limit the phased retirement program to retirees who have reached a normal retirement age (to be designated by UNC as either 59½ or 60 years). The act also authorizes the community colleges system to establish a similar phased retirement program for faculty that has reached normal retirement age.

Effective July 1, 2007, with exemptions for the phased retirement programs.

Intro. by Glazier.

GS 115C, 135