



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 202

AMENDMENT NO. 37
(to be filled in by
Principal Clerk)

S202-ALH-28 [v.4]

Page 1 of 3

Comm. Sub. [YES]
Amends Title [NO]
Fifth Edition

Date JUN 11 2009, 2009

Representative Blackwell

ADOPTED

1 moves to amend the bill on pages 243, line 44 through page 244, line 36;
2 by deleting those lines and substituting the following:

3 **SECTION 26.14A.(b)** G.S. 126-8.5 reads as rewritten:

4 "**§ 126-8.5. Discontinued service retirement allowance and severance wages for certain**
5 **State employees; limitation to amount of transition salary packages**
6 **or golden parachutes for State employees.**

7 (a) When the Director of the Budget determines that the closing of a State institution or
8 a reduction in force will accomplish economies in the State Budget, he shall pay either a
9 discontinued service retirement allowance or severance wages to any affected State employee,
10 provided reemployment is not available. As used in this section, "economies in the State
11 Budget" means economies resulting from elimination of a job and its responsibilities or from a
12 lack of funds to support the job. In determining whether to pay a discontinued service
13 retirement allowance or severance wages, the Director of the Budget shall consider the
14 recommendation of the department head involved and any recommendation of the State
15 Personnel Director. Severance wages shall not be paid to an employee who chooses a
16 discontinued service retirement. Severance wages shall not be subject to employer or employee
17 retirement contributions. Severance wages shall be paid according to the policies adopted by
18 the State Personnel Commission.

19 Notwithstanding any other provisions of the State's retirement laws, any employee of the
20 State who is a member of the Teachers' and State Employees' Retirement System or the
21 Law-Enforcement Officers' Retirement System and who has his job involuntarily terminated as
22 a result of economies in the State Budget may be entitled to a discontinued service retirement
23 allowance, subject to the approval of the employing agency and the availability of agency
24 funds. An unreduced discontinued service retirement allowance, not otherwise allowed, may be
25 approved for employees with 20 or more years of creditable retirement service who are at least
26 55 years of age; or a discontinued service retirement allowance, not otherwise allowed, may be
27 approved for employees with 20 or more years of creditable retirement service who are at least
28 50 years of age, reduced by one-fourth of one percent (1/4 of 1%) for each month that retirement
29 precedes his fifty-fifth birthday. In cases where a discontinued service retirement allowance is
30 approved, the employing agency shall make a lump sum payment to the Administrator of the
31 State Retirement Systems equal to the actuarial present value of the additional liabilities
32 imposed upon the System, to be determined by the System's consulting actuary, as a result of



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Page 2 of 3

1 the discontinued service retirement, plus an administrative fee to be determined by the
2 Administrator.

3 The salary used to determine severance wages under this section is the last annual salary
4 except that if the employee was promoted within the previous 12 months, the last annual salary
5 is that annual salary prior to the promotion. If the annual salary prior to the promotion is used,
6 it shall be adjusted to account for any across-the-board legislative salary increases. Excluded
7 from any calculation are any benefits such as, but not limited to, overtime pay, shift pay,
8 holiday premium, or longevity pay.

9 (b) Any employee separated from State government and paid severance wages under
10 this section shall not be employed under a contractual arrangement by any State agency, other
11 than the constituent institutions of The University of North Carolina and the constituent
12 institutions of the North Carolina Community College System, until 12 months have elapsed
13 since the separation. This subsection does not affect any reduction in force rights that the
14 employee may have."

15 (c) The amount of any transition salary package payable to certain State employees
16 employed by State agencies, departments, institutions and The University of North Carolina
17 shall be limited by the provisions of this subsection as follows:

18 (1) Notwithstanding any other provision of law, no State employee who leaves
19 the position that the employee most recently held shall continue to be paid
20 the salary for that position when the employee is no longer carrying out the
21 responsibilities for that position. This includes periods of transition.

22 (2) Notwithstanding subdivision (1) of this subsection, a State employee who
23 leaves the position that the employee most recently held may continue to be
24 paid the salary for a position that he or she no longer holds in the following
25 circumstances only:

26 a. The payment is included as a term of the contract that was entered
27 into at the time the person was hired for, or promoted to, the position
28 most recently held; and

29 b. The contract is signed by the appropriate finance officer or a properly
30 designated deputy finance officer for the agency hiring the person,
31 approved by the agency head, and approved by the Office of State
32 Budget and Management. If the State agency is The University of
33 North Carolina or a constituent institution of The University of North
34 Carolina, then the contract must be signed by the appropriate finance
35 officer or a properly designated deputy finance officer for The
36 University of North Carolina or the constituent institution, approved
37 by the appropriate chancellor, and approved by the UNC Board of
38 Governors or by the Board of Trustees of the constituent institution
39 as appropriate.

40 (3) This subsection does not affect or impair a State employee's rights to
41 severance wages or a discontinued service retirement allowance as provided
42 in subsections (a) and (b) of this section, or terminal leave payments for
43 vacation leave, bonus leave, and longevity, if applicable.

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Page 3 of 3

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(4) The following definitions apply in this subsection:

a. State employee who leaves the position that the employee most recently held. -- Includes those circumstances in which a person retires, resigns, or voluntarily or involuntarily terminates employment. The phrase also includes those circumstances in which a person continues to work for the State but accepts a lesser position with the State.

b. Transition. – When a State employee moves from the position that the employee most recently held to a lesser position of employment. The term includes a 'golden parachute' or a sabbatical."

SECTION 26.14A.(c) Subsection (a) of this section expires June 30, 2011. G.S. 126-8.5(c)(1) applies retroactively and also applies to payments that have not yet been made unless there is a legally enforceable contract to pay."

SIGNED


Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

68-45 EV
JUN 11 2009

FAILED

TABLED

Steve White

ADOPTED