

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 153  
PROPOSED COMMITTEE SUBSTITUTE H153-PCS50201-RC-10

Short Title: No Public Retirement for Convicted Felons.

(Public)

Sponsors:

Referred to:

February 22, 2011

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT A PERSON WHO HAS BEEN CONVICTED OF A FELONY FROM RECEIVING RETIREMENT BENEFITS FROM THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, OR THE LEGISLATIVE RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 1 of Chapter 135 of the General Statutes is amended by adding a new section to read:

**"§ 135-18.11. Forfeiture of retirement benefits for certain felonies related to employment or holding office.**

(a) Except as provided in G.S. 135-4(ii), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions plus interest, to any member who is convicted of any felony under federal law or the laws of this State if all of the following apply:

- (1) The offense is committed while the member is an employee, a teacher, or an elected or appointed officer of a participating employer.
- (2) The individual's conduct is directly related to the individual's office or employment.

(b) Subdivision (a)(2) of this section shall apply to felony convictions where the court finds under G.S. 15A-1340.16(d)(9) or other applicable state or federal procedure that the individual's conduct is directly related to the individual's office or employment."

**SECTION 2.** G.S. 135-4 is amended by adding a new subsection to read:

"(ii) If a member who is an employee, a teacher, or an officer of a participating employer and has not vested in this System on July 1, 2011, is convicted of an offense listed in G.S. 135-18.11 for acts committed after July 1, 2011, then that member shall forfeit all benefits under this System, except for a return of member contributions plus interest. If a member who is an employee or a teacher and has vested in this System on July 1, 2011, is convicted of an offense listed in G.S. 135-18.11 for acts committed after July 1, 2011, then that member is not entitled to any creditable service that accrued after July 1, 2011."

**SECTION 3.** Article 3 of Chapter 128 of the General Statutes is amended by adding a new section to read:

**"§ 128-38.5. Forfeiture of retirement benefits for certain felonies related to employment or holding office.**



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1       (a)     Except as provided in G.S. 128-26(x), the Board of Trustees shall not pay any  
2 retirement benefits or allowances, except for a return of member contributions plus interest, to  
3 any member who is convicted of any felony under federal law or the laws of this State if all of  
4 the following apply:

- 5           (1)     The offense is committed while the member is an employee or an elected or  
6 appointed officer of a participating employer.  
7           (2)     The individual's conduct is directly related to the individual's office or  
8 employment.

9       (b)     Subdivision (a)(2) of this section shall apply to felony convictions where the court  
10 finds under G.S. 15A-1340.16(d)(9) or other applicable state or federal procedure that the  
11 individual's conduct is directly related to the individual's office or employment."

12       **SECTION 4.** G.S. 128-26 is amended by adding a new subsection to read:

13       "(x)     If a member who is an employee or an elected or appointed officer of the employer  
14 and has not vested in this System on July 1, 2011, is convicted of an offense listed in  
15 G.S. 126-38.5 for acts committed after July 1, 2011, then that member shall forfeit all benefits  
16 under this System, except for a return of member contributions plus interest. If a member who  
17 is an employee or a teacher and has vested in this System on July 1, 2011, is convicted of an  
18 offense listed in G.S. 126-38.5 for acts committed after July 1, 2011, then that member is not  
19 entitled to any creditable service that accrued after July 1, 2011."

20       **SECTION 5.** Article 4 of Chapter 135 of the General Statutes is amended by  
21 adding a new section to read:

22       "**§ 135-75.2. Forfeiture of retirement benefits for certain felonies related to employment**  
23 **or holding office.**

24       (a)     Except as provided in G.S. 135-56(j), the Board of Trustees shall not pay any  
25 retirement benefits or allowances, except for a return of member contributions plus interest, to  
26 any member who is convicted of any felony under federal law or the laws of this State if all of  
27 the following apply:

- 28           (1)     The offense is committed while the member is an employee, a teacher, or an  
29 officer of a participating employer.  
30           (2)     The individual's conduct is directly related to the individual's office or  
31 employment.

32       (b)     Subdivision (a)(2) of this section shall apply to felony convictions where the court  
33 finds under G.S. 15A-1340.16(d)(9) or other applicable state or federal procedure that the  
34 individual's conduct is directly related to the individual's office or employment."

35       **SECTION 6.** G.S. 135-56 is amended by adding a new subsection to read:

36       "(j)     If a member who is a judge, district attorney, clerk of superior court, public  
37 defender, or the Director of Indigent Defense Services and has not vested in this System on  
38 July 1, 2011, is convicted of an offense listed in G.S. 135-75.2 for acts committed after July 1,  
39 2011, then that member shall forfeit all benefits under this System, except for a return of  
40 member contributions plus interest. If a member who is a judge, district attorney, clerk of  
41 superior court, public defender, or the Director of Indigent Defense Services and has vested in  
42 this System on July 1, 2011, is convicted of an offense listed in G.S. 135-75.2 for acts  
43 committed after July 1, 2011, then that member is not entitled to any creditable service that  
44 accrued after July 1, 2011."

45       **SECTION 7.** Article 1A of Chapter 120 of the General Statutes is amended by  
46 adding a new section to read:

47       "**§ 120-4.34. Forfeiture of retirement benefits for certain felonies related to employment**  
48 **or holding office.**

49       (a)     Except as provided in G.S. 120-4.12(g), the Board of Trustees shall not pay any  
50 retirement benefits or allowances, except for a return of member contributions plus interest, to

1 any member who is convicted of any felony under federal law or the laws of this State if all of  
2 the following apply:

3 (1) The offense is committed while the member is an employee, a teacher, or an  
4 officer of a participating employer.

5 (2) The individual's conduct is directly related to the individual's office or  
6 employment.

7 (b) Subdivision (a)(2) of this section shall apply to felony convictions where the court  
8 finds under G.S. 15A-1340.16(d)(9) or other applicable state or federal procedure that the  
9 individual's conduct is directly related to the individual's office or employment."

10 **SECTION 8.** G.S. 120-4.12 is amended by adding a new subsection to read:

11 "(g) If a member who has not vested in this System on July 1, 2011, is convicted of an  
12 offense listed in G.S. 120-4.34 for acts committed after July 1, 2011, then that member shall  
13 forfeit all benefits under this System, except for a return of member contributions plus interest.  
14 If a member who is a present member of the General Assembly and has vested in this System  
15 on July 1, 2011, is convicted of an offense listed in G.S. 120-4.34 for acts committed after July  
16 1, 2011, then that member is not entitled to any creditable service that accrued after July 1,  
17 2011."

18 **SECTION 9.** G.S. 15A-1340.16(d)(9) reads as rewritten:

19 "(d) Aggravating Factors. – The following are aggravating factors:

20 ...

21 (9) The defendant held public elected or appointed office or public employment  
22 at the time of the offense and the offense directly related to the conduct of  
23 the ~~office~~-office or employment.

24 ...."

25 **SECTION 10.** G.S. 15A-1340.16 is amended by adding a new subsection to read:

26 "(f) If the court determines that an aggravating factor under subdivision (d)(9) of this  
27 section has been proven, the court shall notify the State Treasurer of the fact of the conviction  
28 as well as the finding of the aggravating factor. The indictment charging the defendant with the  
29 underlying offense must include notice that the State seeks to prove the defendant acted in  
30 accordance with subdivision (d)(9) of this section and that the State will seek to prove that as  
31 an aggravating factor."

32 **SECTION 11.** The State Treasurer shall negotiate a memorandum of agreement  
33 with the United States Attorneys for the Eastern, Middle, and Western Districts of North  
34 Carolina whereby the prosecutors will notify the State Treasurer of convictions under  
35 G.S. 135-18.11(b), 128-38.5(b), 135-75.2(b), and 120-4.34(b).

36 **SECTION 12.** This act becomes effective December 1, 2011, and applies to  
37 offenses committed on or after that date.