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HOUSE DRH10133-LL-67 (2/17)

Short Title: Retirement Technical Corrections.-AB

(Public)

Sponsors: Representative Moffitt.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE STATUTES  
3 AFFECTING THE STATE RETIREMENT SYSTEMS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** G.S. 143-166.30(d) reads as rewritten:

6 "(d) Supplemental Retirement Income Plan for State Law-Enforcement Officers. – As of  
7 January 1, 1985, there shall be created a Supplemental Retirement Income Plan, hereinafter  
8 called the "Plan," established for the benefit of all law-enforcement officers employed by the  
9 State, who shall be participants. The Board of Trustees of the State Retirement System shall  
10 administer the Plan and shall, under the terms and conditions otherwise appearing herein,  
11 provide Plan benefits either (i) by establishing a separate trust fund in conformance with  
12 Section 401(a), Section 401(k) or other sections of the Internal Revenue Code of 1954 as  
13 amended or, (ii) by causing the Plan to affiliate with some master trust fund providing the same  
14 benefits for participants. The Plan shall be separate and apart from any retirement systems.

15 In addition to the contributions transferred from the Law-Enforcement Officers' Retirement  
16 System and the contributions otherwise provided for in this Article, participants may make  
17 voluntary contributions to the Plan to be credited to the designated individual accounts of  
18 participants; provided, in no instance shall the total contributions by a participant exceed ten  
19 percent (10%) of a participant's compensation within any calendar year. participants.

20 All contributions to the Plan shall be credited to the individual accounts of participants, and  
21 except as provided in subsection (g1) of this section, shall be fully and immediately vested in  
22 the name of the participant, and shall be invested according to each participant's election, as  
23 provided by the Board of Trustees, including but not limited to time deposits, and both fixed  
24 and variable investments. The Plan may provide for loans to participants, at reasonable rates of  
25 interest to be charged, from participants' individual accounts, and may provide for withdrawal  
26 of contributions on account of hardship.

27 The benefit to a participant in the Plan shall be either a lump-sum distribution or a  
28 distribution in periodic installments of the participant's account payable under retirement,  
29 disability, or termination of employment. Upon the death of a participant there shall be paid the  
30 same lump-sum distribution or periodic installments to the surviving spouse of the participant  
31 or otherwise to the participant's estate; provided, should a participant instruct the Board of  
32 Trustees in writing that he does not wish these benefits to be paid to his spouse or estate, then  
33 the benefits shall be paid to the person or persons as the participant may name for this purpose.

34 Upon retirement, a participant in the Plan may elect to transfer any portion of his eligible  
35 accumulated contributions, not including any Roth after-tax contributions and the earnings  
36 thereon, to the Teachers' and State Employees' Retirement System and receive, in addition to



1 his basic service, early or disability retirement allowance a special retirement allowance which  
2 shall be based on his eligible accumulated account balance at the date of the transfer of the  
3 assets."

4 **SECTION 1.(b)** G.S. 143-166.50(e) reads as rewritten:

5 "(e) Supplemental Retirement Income Plan for Local Governmental Law-Enforcement  
6 Officers. – As of January 1, 1986, all law-enforcement officers employed by a local  
7 government employer, are participating members of the Supplemental Retirement Income Plan  
8 as provided by Article 5 of Chapter 135 of the General Statutes. In addition to the contributions  
9 transferred from the Law-Enforcement Officers' Retirement System, participants may make  
10 voluntary contributions to the Supplemental Retirement Income Plan to be credited to the  
11 designated individual accounts of participants; ~~provided, in no instance shall the total~~  
12 ~~contributions by a participant exceed ten percent (10%) of a participant's compensation within~~  
13 ~~any calendar year.~~ participants. From July 1, 1987, until July 1, 1988, local government  
14 employers of law enforcement officers shall contribute an amount equal to at least two percent  
15 (2%) of participating local officers' monthly compensation to the Supplemental Retirement  
16 Income Plan to be credited to the designated individual accounts of participating local officers;  
17 and on and after July 1, 1988, local government employers of law enforcement officers shall  
18 contribute an amount equal to five percent (5%) of participating local officers' monthly  
19 compensation to the Supplemental Retirement Income Plan to be credited to the designated  
20 individual accounts of participating local officers.

21 Additional contributions shall also be made to the individual accounts of all participants in  
22 the Plan, except for Sheriffs, on a per capita equal-share basis from the sum of one dollar and  
23 twenty-five cents (\$1.25) for each cost of court collected under G.S. 7A-304.

24 Upon retirement, a participant in the Plan may elect to transfer any portion of his eligible  
25 accumulated contributions, not including any Roth after-tax contributions and the earnings  
26 thereon, to the Local Governmental Employees' Retirement System and receive, in addition to  
27 his basic service, early or disability retirement allowance a special retirement allowance which  
28 shall be based on his eligible accumulated account balance at the date of the transfer of the  
29 assets."

30 **SECTION 2.(a)** G.S. 128-26(a) reads as rewritten:

31 "(a) Each person who becomes a member during the first year of his or her employer's  
32 participation, and who was an employee of the same employer at any time during the year  
33 immediately preceding the date of participation, shall file a detailed statement of all service  
34 rendered by him or her to that employer prior to the date of participation for which he or she  
35 claims credit.

36 A participating employer may allow prior service credit to any of its employees on account  
37 of: their earlier service to the aforesaid employer; or, their earlier service to any other employer  
38 as the term employer is defined in G.S. 128-21(11); or, their earlier service to any state,  
39 territory, or other governmental subdivision of the United States other than this State.

40 A participating employer may allow prior service credit to any of its employees on account  
41 of service, as defined in G.S. 135-1(23), to the State of North Carolina to the extent of such  
42 service prior to the establishment of the Teachers' and State Employees' Retirement System on  
43 July 1, 1941; provided that employees allowed such prior service credit pay in a total lump sum  
44 an amount calculated on the basis of compensation the employee earned when the employee  
45 first entered membership and the employee contribution rate at that time together with interest  
46 thereon from year of first membership to year of payment shall be one half of the calculated  
47 cost.

48 (a1) With respect to a member retiring on or after July 1, 1967, the governing board of a  
49 participating unit may allow credit for any period of military service in the Armed Forces of the  
50 United States if the person returned to the service of the person's employer within two years  
51 after having been honorably discharged, or becoming entitled to be discharged, released, or

1 separated from such the Armed Forces of the United States; provided that, notwithstanding the  
 2 above provisions, any member having credit for not less than 10 years of otherwise creditable  
 3 service may be allowed credit for such military services which are not creditable in any other  
 4 governmental retirement system; provided further, that a member will receive credit for  
 5 military service under the provisions of this paragraph only if the member submits satisfactory  
 6 evidence of the military service claimed and the participating unit of which the member is an  
 7 employee agrees to grant credit for such military service prior to January 1, 1972.

8 A member retiring on or after July 1, 1971, who is not granted credit for military service  
 9 under the provisions of the preceding paragraph will be allowed credit for any period of qualifying service  
 10 in the Armed Forces of the United States up to the date the member was first  
 11 eligible to be separated or released therefrom; States, as defined for purposes of reemployment  
 12 rights under federal law, provided that the member was an employee as defined in  
 13 G.S. 128-21(10) at the time the member entered military service, and either of (i) the returning  
 14 member is in service, with the employer by whom the member was employed when the  
 15 member entered military service, for a period of not less than 10 years after the member is  
 16 separated or released from that military service under other than dishonorable conditions or (ii)  
 17 the following conditions is met: are met, in the conjunctive:

- 18 (1) ~~The member returns to service, with the employer by whom the member was~~  
 19 ~~employed when the member entered military service, within a period of two~~  
 20 ~~years after the member is first eligible to be separated or released from such~~  
 21 ~~military service under other than dishonorable conditions.~~
- 22 (2) ~~The member is in service, with the employer by whom the member was~~  
 23 ~~employed when the member entered military service, for a period of not less~~  
 24 ~~than 10 years after the member is separated or released from the Armed~~  
 25 ~~Forces of the United States under other than dishonorable conditions.~~
- 26 (1) The member did not, prior to leaving for military service, provide clear  
 27 written notice of an intent not to return to work after military service.
- 28 (2) The member was discharged from uniformed service and returned from the  
 29 leave of absence for uniformed service to membership service in this system  
 30 within the time limit mandated by federal law for reporting back to work.
- 31 (3) The period of uniformed service, for which additional service credit is  
 32 sought, has been verified by suitable documentation and is not eligible for  
 33 receipt of benefits under any other retirement system or pension plan.
- 34 (4) All service credit forfeited by a refund pursuant to the provisions of  
 35 G.S. 128-27(f) has been purchased.

36 The uniformed service credit allowed under this subsection shall be limited to a maximum  
 37 of five years unless otherwise specifically exempted from that durational limitation by federal  
 38 law. The salary or compensation of such an employee during the period of qualifying military  
 39 service shall be deemed to be that salary or compensation the employee would have received  
 40 but for the period of service had the employee remained continuously employed, if the  
 41 determination of that salary or compensation is reasonably certain. If the determination of the  
 42 salary or compensation is not reasonably certain, then it shall be deemed to be that employee's  
 43 average rate of compensation during the 12-month period immediately preceding the period of  
 44 service.

45 Pursuant to 38 U.S.C. § 4318(b)(1), when a member who has been on military leave returns  
 46 to work consistent with the provisions of this subsection concerning return to service within  
 47 two years after the member's earliest eligibility for separation or release from military service,  
 48 then the member's employer must remit to the System all the employer contributions for the full  
 49 period of that member's military service."

50 **SECTION 3.(a)** G.S. 135-1(14) reads as rewritten:

1 "(14) "Membership service" shall mean service as a teacher or State employee  
2 rendered while a member of the Retirement ~~System~~System or membership  
3 service in a North Carolina Retirement System that has been transferred into  
4 this system."

5 **SECTION 3.(b)** G.S. 128-21(14) reads as rewritten:

6 "(14) "Membership service" shall mean service as an employee rendered while a  
7 member of the Retirement ~~System~~System or membership service in a North  
8 Carolina Retirement System that has been transferred into this system."

9 **SECTION 4.(a)** G.S. 135-1 reads as rewritten:

10 "(20) "Retirement" under this Article means the commencement of monthly  
11 retirement benefits along with termination of employment and the complete  
12 separation from active service with no intent or agreement, express or  
13 implied, to return to service. A retirement allowance under the provisions of  
14 this ~~Chapter~~Article may only be granted upon retirement of a member. In  
15 order for a member's retirement to become effective in any month, the  
16 member must ~~render no service, perform no work for an employer,~~ including  
17 part-time, temporary, substitute, or contractor ~~service, work,~~ at any time  
18 during the six months immediately following the effective date of  
19 retirement. For purposes of this subdivision, ~~service-working~~ as a member of  
20 a school board or as an unpaid bona fide volunteer in a local school  
21 administrative unit shall not be considered service. A member who is a  
22 full-time faculty member of The University of North Carolina may effect a  
23 retirement allowance under this ~~Chapter~~Article, notwithstanding the  
24 six-month requirement above, provided the member immediately enters the  
25 University's Phased Retirement Program for Tenured Faculty as that  
26 program existed on May 25, 2011."

27 **SECTION 4.(b)** G.S. 128-21 reads as rewritten:

28 "(19) "Retirement" under this Article shall mean ~~withdrawal~~the commencement  
29 of monthly retirement benefits, along with the termination of employment  
30 and the complete separation from active service with a retirement allowance  
31 granted under the provisions of this Article. ~~no intent or agreement,~~  
32 ~~expressed or implied, to return to service.~~ A retirement allowance under the  
33 provisions of this ~~Chapter~~Article may only be granted upon retirement of a  
34 member. In order for a member's retirement to become effective in any  
35 month, the member must ~~render no service, perform no work for a~~  
36 ~~participating employer,~~ including ~~part-time, part-time,~~ temporary, substitute,  
37 or contractor ~~service, work,~~ at any time during the same month immediately  
38 following the effective ~~date~~first day of retirement."

39 **SECTION 4.(c)** G.S. 135-53(16) reads as rewritten:

40 "(16) "Retirement" under this Article shall mean the ~~withdrawal~~commencement  
41 of monthly retirement benefits, along with the termination of employment  
42 and the complete separation from active service with a retirement allowance  
43 granted under the provisions of this Chapter. ~~no intent or agreement,~~  
44 ~~expressed or implied, to return to service.~~ A retirement allowance under the  
45 provisions of this Article may only be granted upon retirement of a member.  
46 In order for a member's retirement to become effective in any month, the  
47 member must ~~render no service~~perform no work, including part-time,  
48 temporary, substitute, or contractor work, at any time during ~~that month~~the  
49 same month immediately following the effective first day of retirement."

50 **SECTION 4.(d)** G.S. 120-4.8 reads as rewritten:

"(14) "Retirement" under this Article means the withdrawal commencement of monthly retirement benefits, along with the termination of employment and the complete separation from active service with a retirement allowance granted under the provisions of this Article. no intent or agreement, expressed or implied, to return to service. A retirement allowance under the provisions of this Article may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must ~~render no service~~ perform no work, including part-time, temporary, substitute, or contractor work, at any time during that month. the same month immediately following the effective first day of retirement."

**SECTION 5.** G.S. 135-5.1(b) reads as rewritten:

"(b) Participation in the Optional Retirement Program shall be governed as follows:

...

(2) Eligible employees initially appointed on or after July 1, 1985, shall at the same time of entering upon eligible employment elect (i) to join the Retirement System in accordance with the provisions of law applicable thereto or (ii) to participate in the Optional Retirement Program. This election shall be in writing and filed with the Retirement System and with the employing institution and shall be effective as of the date of entry into eligible service. For purposes of this provision, the Optional Retirement Program shall be permitted to file individual election forms with the Retirement System using electronic transmission.

...."

**SECTION 6.** G.S. 135-101(3) reads as rewritten:

"(3) "Benefits" shall mean the monthly disability income payments made pursuant to the provisions of this Article. In the event of death on or after the first day of a month, ~~or in the monthly benefit shall not be prorated unless the death occurs during the final month of the approved benefit period, in which case the benefit shall not exceed the last date of approval.~~ In the event the short-term disability benefit ends on or after the first day of a month where the beneficiary is eligible and applies for an early service or a service retirement allowance the first of the following month, the monthly benefit shall not be prorated and shall equal the benefits paid in the previous month. prorated."

**SECTION 7.** G.S. 135-106(d) reads as rewritten:

"(d) Notwithstanding the foregoing, a participant or beneficiary who has applied for and been approved by the Medical Board for long-term disability benefits may make an irrevocable election, within 90 days from the date of notification of such approval, and prior to receipt of any long-term disability benefit payments, to forfeit all pending and accrued rights to the long-term disability benefit including any ancillary benefits and retire on an early service retirement ~~allowance~~ allowance, effective with the first day of the month following the end of the short-term period, or receive a return of accumulated contributions from the Retirement System."

**SECTION 8.(a)** Article 6 of Chapter 135 of the General Statutes is amended by adding a new section to read:

**"§ 135-111.1. Improper receipt of decedent's Disability Income Plan allowance.**

A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud, receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's Disability Income Plan allowance and the person (i) knows that he or she is not entitled to the decedent's Disability Income Plan allowance, (ii) receives the benefit at least two months after

1 the date of the beneficiary's death, and (iii) does not attempt to inform this Retirement System  
2 of the beneficiary's death."

3 **SECTION 8.(b)** G.S. 135-118.11 reads as rewritten:

4 **"§ 135-18.11. Improper receipt of decedent's retirement allowance or disability benefit.**

5 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,  
6 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's  
7 retirement allowance ~~or a decedent's monthly benefit under the Disability Income Plan of North~~  
8 ~~Carolina~~ and the person (i) knows that he or she is not entitled to the decedent's retirement  
9 allowance or the monthly disability benefit, (ii) receives the benefit at least two months after  
10 the date of the retiree's or beneficiary's death, and (iii) does not attempt to inform this  
11 Retirement System of the retiree's or beneficiary's death."

12 **SECTION 8.(c)** G.S. 128-38.5 reads as rewritten:

13 **"§ 128-38.5. Improper receipt of decedent's retirement allowance.**

14 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,  
15 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's  
16 retirement allowance and the person (i) knows that he or she is not entitled to the decedent's  
17 retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's  
18 or beneficiary's death, and (iii) does not attempt to inform this Retirement System of the  
19 retiree's or beneficiary's death."

20 **SECTION 8.(d)** G.S. 135-75.2 reads as rewritten:

21 **"§ 135-75.2. Improper receipt of decedent's retirement allowance.**

22 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,  
23 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's  
24 retirement allowance and the person (i) knows that he or she is not entitled to the decedent's  
25 retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's  
26 or beneficiary's death, and (iii) does not attempt to inform this Retirement System of the  
27 retiree's or beneficiary's death."

28 **SECTION 8.(e)** G.S. 120-4.34 reads as rewritten:

29 **"§ 120-4.34. Improper receipt of decedent's retirement allowance.**

30 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,  
31 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's  
32 retirement allowance and the person (i) knows that he or she is not entitled to the decedent's  
33 retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's  
34 or beneficiary's death, and (iii) does not attempt to inform this Retirement System of the  
35 retiree's or beneficiary's death."

36 **SECTION 9.** G.S. 143-166.2(d) reads as rewritten:

37 "(d) The term "law-enforcement officer", "officer", or "fireman" shall mean a sheriff and  
38 all law-enforcement officers employed full-time, permanent part-time, or temporarily by a  
39 sheriff, the State of North Carolina or any county or municipality thereof, whether paid or  
40 unpaid; and all full-time custodial employees and probation and parole officers of the Division  
41 of Adult Correction of the Department of Public Safety; and all full time institutional and  
42 full-time, permanent part-time, and temporary detention employees of the Division of Juvenile  
43 Justice of the Department of Public Safety and full-time, permanent part-time, and temporary  
44 detention officers employed by any sheriff, county or municipality, whether paid or unpaid.  
45 The term "firemen" shall mean both "eligible firemen" as defined in ~~G.S. 58-86-25~~  
46 G.S. 58-86-2, notwithstanding any age requirements set out in that section, and all full-time,  
47 permanent part-time and temporary employees of the Division of Forest Resources, Department  
48 of Agriculture and Consumer Services, during the time they are actively engaged in  
49 fire-fighting activities; and shall mean all full-time employees of the North Carolina  
50 Department of Insurance during the time they are actively engaged in fire-fighting activities,  
51 during the time they are training fire fighters or rescue squad workers, and during the time they

1 are engaged in activities as members of the State Emergency Response Team, when the Team  
2 has been activated; and shall mean all otherwise eligible persons who, while actively engaged  
3 as firefighters or rescue squad workers, are acting in the capacity of a fire or rescue instructor  
4 outside their own department or squad. The term "rescue squad worker" shall mean a person  
5 who is dedicated to the purpose of alleviating human suffering and assisting anyone who is in  
6 difficulty or who is injured or becomes suddenly ill by providing the proper and efficient care  
7 or emergency medical services. In addition, this person must belong to an organized rescue  
8 squad which is eligible for membership in the North Carolina Association of Rescue Squads,  
9 and Emergency Medical Services, Inc., and the person must have attended a minimum of 36  
10 hours of training ~~and meetings~~ in the last calendar year. Each rescue squad belonging to the  
11 North Carolina Association of Rescue Squads, and Emergency Medical Services, Inc., must file  
12 a roster of those members meeting the above requirements with the State Treasurer on or about  
13 ~~January 1~~ January 31 of each year, and this roster must be certified to by the secretary of said  
14 association. In addition, the term "rescue squad worker" shall mean a member of an ambulance  
15 service certified by the Department of Health and Human Services pursuant to Article 7 of  
16 Chapter 131E of the General Statutes. The Department of Health and Human Services shall  
17 furnish a list of ambulance service members to the State Treasurer on or about ~~January 1~~  
18 January 31 of each year. The term "Civil Air Patrol members" shall mean those senior members  
19 of the North Carolina Wing-Civil Air Patrol 18 years of age or older and currently certified  
20 pursuant to G.S. 143B-1031. The term "fireman" shall also mean county fire marshals when  
21 engaged in the performance of their county duties. The term "rescue squad worker" shall also  
22 mean county emergency services coordinators when engaged in the performance of their  
23 county duties."

24           **SECTION 10.** This act becomes effective July 1, 2013.