

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 359
Committee Substitute Favorable 5/9/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H359-PCS70475-SH-26

Short Title: Retirement Administrative Changes Act of 2013.

(Public)

Sponsors:

Referred to:

March 21, 2013

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO ADMINISTRATION OF THE STATE RETIREMENT SYSTEMS THAT WILL EXTEND THE TRANSFER BENEFIT OPTION TO PARTICIPANTS IN THE 403(B) SUPPLEMENTAL RETIREMENT PLAN, CLARIFY THE TIMING OF THE SOCIAL SECURITY OFFSET FOR LONG-TERM DISABILITY BENEFITS, ESTABLISH A 415(M) BENEFITS PRESERVATION ARRANGEMENT AS ALLOWED UNDER FEDERAL LAW, AND PROVIDE THAT DOMESTIC RELATIONS ORDERS DIVIDING INTERESTS UNDER THE RETIREMENT SYSTEM MUST BE SUBMITTED ON APPROVED FORMS, AND TO CORRECT AN OVERSIGHT IN THE DISABILITY INCOME PLAN, AND TO AMEND THE PROVISIONS FOR ALLOWANCE OF RETROACTIVE MEMBERSHIP SERVICE IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-5(m2) reads as rewritten:

"(m2) Special Retirement Allowance. – At any time coincident with or following retirement, a member may make a one-time election to transfer any portion of the member's eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System and receive, in addition to the member's basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon the member's transferred balance.

A member who became a member of the Supplemental Retirement Income Plan prior to retirement and who remains a member of the Supplemental Retirement Income Plan may make a one-time election to transfer eligible balances, not including any Roth after-tax contributions and the earnings thereon, from any of the following plans to the Supplemental Retirement Income Plan, subject to the applicable requirements of the Supplemental Retirement Income Plan, and then through the Supplemental Retirement Income Plan to this Retirement System:

- (1) A plan participating in the North Carolina Public School Teachers' and Professional Educators' Investment Plan.
- (2) A plan described in section 403(b) of the Internal Revenue Code.
- (3) A plan described in section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.



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- 1 (4) An individual retirement account or annuity described in Section 408(a) or
2 408(b) of the Internal Revenue Code that is eligible to be rolled over and
3 would otherwise be includible in gross income.
4 (5) A tax-qualified plan described in section 401(a) or 403(a) of the Internal
5 Revenue Code.

6 Notwithstanding anything to the contrary, a member may not transfer such amounts as will
7 cause the member's retirement allowance under the System to exceed the amount allowable
8 under G.S. 135-18.7(b). The Board of Trustees may establish a minimum amount that must be
9 transferred if a transfer is elected. The member may elect a special retirement allowance with
10 no postretirement increases or a special retirement allowance with annual postretirement
11 increases equal to the annual increase in the U.S. Consumer Price Index. Postretirement
12 increases on any other allowance will not apply to the special retirement allowance. The Board
13 of Trustees shall provide educational materials to the members who apply for the transfer
14 authorized by this section. Those materials shall describe the special retirement allowance and
15 shall explain (i) the relationship between the transferred balance and the monthly benefit; and
16 (ii) how the member's heirs may be impacted by the election to make this transfer and any costs
17 and fees involved.

18 For the purpose of determining the special retirement allowance, the Board of Trustees shall
19 adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality
20 and such other tables as may be necessary based upon actual experience. A single set of
21 mortality and such other tables will be used for all members, with factors differing only based
22 on the age of the member and the election of postretirement increases. The Board of Trustees
23 shall modify the mortality and such other tables every five years, as shall be deemed necessary,
24 based upon the five-year experience study as required by G.S. 135-6(n). Provided, however, a
25 member who transfers the member's eligible accumulated contributions from ~~the Supplemental~~
26 ~~Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred~~
27 ~~Compensation Plan~~ an eligible retirement plan pursuant to this subsection to this Retirement
28 System shall be taxed for North Carolina State Income Tax purposes on the special retirement
29 allowance the same as if that special retirement allowance had been paid directly by the
30 ~~Supplemental Retirement Income Plan of North Carolina or the North Carolina Public~~
31 ~~Employee Deferred Compensation Plan~~ eligible plan or the plan through which the transfer was
32 made, whichever is most favorable to the member. The Teachers' and State Employees'
33 Retirement System shall be responsible to determine the taxable amount, if any, and report
34 accordingly.

35 The Supplemental Retirement Board of Trustees established under G.S. 135-96 may assess
36 a one-time flat administrative fee not to exceed the actual cost of the administrative expenses
37 relating to these transfers. An eligible plan shall not assess a fee specifically relating to a
38 transfer of accumulated contributions authorized under this subsection. This provision shall not
39 prohibit other fees that may be assessable under the plan. Each plan, contract, account, or
40 annuity shall fully disclose to any member participating in a transfer under this subsection any
41 surrender charges or other fees, and such disclosure shall be made contemporaneous with the
42 initiation of the transfer by the member.

43 The special retirement allowance shall continue for the life of the member and the
44 beneficiary designated to receive a monthly survivorship benefit under Option 2, 3 or 6 as
45 provided in G.S. 135-5(g), if any. The Board of Trustees, however, shall establish two payment
46 options that guarantee payments as follows:

- 47 (1) A member may elect to receive the special retirement allowance for life but
48 with payments guaranteed for a number of months to be specified by the
49 Board of Trustees. Under this plan, if the member dies before the expiration
50 of the specified number of months, the special retirement allowance will
51 continue to be paid to the member's designated beneficiary for the life of the

1 beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected,
2 the member's designated beneficiary will receive the benefit only for the
3 remainder of the specified number of months. If the member's designated
4 beneficiary dies before receiving payments for the specified number of
5 months, any remaining payments will be paid to the member's estate.

- 6 (2) A member may elect to receive the special retirement allowance for life but
7 is guaranteed that the sum of the special allowance payments will equal the
8 total of the transferred amount. Under this payment option, if the member
9 dies before receiving the total transferred amount, the special retirement
10 allowance will continue to be paid to the member's designated beneficiary
11 for the life of the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or
12 6 is not selected, the member's designated beneficiary or the member's estate
13 shall be paid any remaining balance of the transferred amount.

14 The Board of Trustees shall report annually to the Joint Legislative Commission on
15 Governmental Operations on the number of persons who made an election in the previous
16 calendar year, with any recommendations it might make on amendment or repeal based on any
17 identified problems.

18 The General Assembly reserves the right to repeal or amend this subsection, but such repeal
19 or amendment shall not affect any person who has already made the one-time election provided
20 in this subsection."

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

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

49 After 36 months of long-term disability, no further benefits are payable under the terms of
50 this section unless the member has been approved and is in receipt of primary Social Security
51 disability benefits. In that case the benefits payable shall be equal to sixty-five percent (65%) of

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

17 Notwithstanding the foregoing, but subject to an additional integration with the five-year
18 and 10-year retirement vesting provisions as set forth in this paragraph, the long-term disability
19 benefit is payable so long as the beneficiary is disabled and is in receipt of a primary Social
20 Security disability benefit until the earliest date at which the beneficiary who became a member
21 prior to August 1, 2011, is eligible for an unreduced service retirement allowance from the
22 Retirement System, at which time the beneficiary would receive a retirement allowance
23 calculated on the basis of the beneficiary's average final compensation at the time of disability
24 as adjusted to reflect compensation increases subsequent to the time of disability and the
25 creditable service accumulated by the beneficiary, including creditable service while in receipt
26 of benefits under the Plan. In the case of any long-term disability beneficiary who became a
27 member on and after August 1, 2011, and ordinarily would not be eligible for a retirement
28 benefit without 10 years of membership service, for purposes of this conversion from long-term
29 disability to service retirement, and for that purpose only, noncontributory creditable service
30 granted while in receipt of disability benefits under this Article shall be deemed to be
31 membership service, through the completion of 10 years of combined membership and
32 noncontributory service on short-term and long-term disability benefits in total. In the event the
33 beneficiary has not been approved and is not in receipt of a primary Social Security disability
34 benefit, the long-term disability benefit shall cease after the first 36 months of the long-term
35 disability period. When such a long-term disability recipient begins receiving this unreduced
36 service retirement allowance from the System, that recipient shall not be subject to the
37 six-month waiting period set forth in G.S. 135-1(20). However, a beneficiary shall be entitled
38 to a restoration of the long-term disability benefit in the event the Social Security
39 Administration grants a retroactive approval for primary Social Security disability benefits with
40 a benefit effective date within the first 36 months of the long-term disability period. In such
41 event, the long-term disability benefit shall be restored retroactively to the date of cessation."

42 **SECTION 3.(a)** Chapter 135 of the General Statutes is amended by adding a new
43 Article to read:

44 "Article 7.

45 "Qualified Excess Benefit Arrangement.

46 **"§ 135-150. Definitions.**

47 The following words and phrases as used in this Article, unless a different meaning is
48 plainly required by the context, have the following meanings:

49 (1) "Board of Trustees" means the Board of Trustees established by G.S. 135-6.

50 (2) "Internal Revenue Code" means the Internal Revenue Code of 1986, as
51 amended from time to time.

- 1 (3) "Payee" means a retired member, or the survivor beneficiary of a member or
2 retired member.
- 3 (4) "Qualified Excess Benefit Arrangement" means the qualified excess benefit
4 arrangement under section 415(m) of the Internal Revenue Code established
5 under this Article.
- 6 (5) "Retirement System" means the Teachers' and State Employees' Retirement
7 System.

8 **"§ 135-151. Qualified Excess Benefit Arrangement.**

9 (a) The Qualified Excess Benefit Arrangement (QEBA) is established effective January
10 1, 2014, and placed under the management of the Board of Trustees. The purpose of the QEBA
11 is solely to provide the part of a retirement allowance or benefit that would otherwise have been
12 payable by a Retirement System except for the limitations under section 415(b) of the Internal
13 Revenue Code. The QEBA, as set forth in this Article, is intended to constitute a qualified
14 governmental excess benefit arrangement under section 415(m) of the Internal Revenue Code.

15 (b) Eligibility to Participate in the QEBA. – Effective as of January 1, 2014, a payee
16 shall participate in the QEBA for any calendar year, or portion of the calendar year, during
17 which he or she receives a retirement allowance or benefit payment on and after January 1,
18 2014, from the Teachers' and State Employees' Retirement System that is reduced due to the
19 application of the maximum benefit provisions of section 415(b) of the Internal Revenue Code.
20 For purposes of the QEBA, a payee is a retired member or survivor beneficiary of a member or
21 retired member who is receiving monthly retirement benefit payments from a Retirement
22 System.

23 (c) Supplemental Benefit Payable Under the QEBA. – Effective January 1, 2014, a
24 payee shall receive each month, commencing on and after January 1, 2014, a monthly
25 supplemental benefit equal to the difference between the amount of that payee's monthly
26 retirement benefit paid under the Teachers' and State Employees' Retirement System on and
27 after January 1, 2014, and the amount that would have been payable to that payee from the
28 Teachers' and State Employees' Retirement System in that month if not for the reduction due to
29 the application of section 415(b) of the Internal Revenue Code. That supplemental benefit shall
30 be computed and payable under the same terms, at the same time, and to the same person as the
31 related benefit payable under the Retirement System. A payee cannot elect to defer the receipt
32 of all or any part of the supplemental payments due under the QEBA. The supplemental benefit
33 paid under this section shall be taxable under North Carolina law in the same manner as the
34 benefit paid under the Teachers' and State Employees' Retirement System.

35 (d) Funding of the QEBA. – The QEBA shall be unfunded within the meaning of
36 federal tax laws. No payee contributions or deferrals, direct or indirect, by election or otherwise
37 shall be made or allowed. The Board of Trustees, upon the recommendation of the actuary
38 engaged by the Board of Trustees, shall determine the employer contributions required to pay
39 the benefits due under the QEBA for each fiscal year. The required contributions shall be paid
40 by all participating employers. The required contributions shall be deposited in a separate fund
41 from the fund into which regular employer contributions are deposited for the Retirement
42 System. The benefit liability for the QEBA shall be determined each fiscal year, and assets
43 shall not be accumulated to pay benefits in future fiscal years.

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

48 (f) Assets Subject to Claims of Creditors. – A payee, or a payee's beneficiary or heirs,
49 shall have no right to, and shall have no property interest in, any assets held to support the
50 liabilities created under this Article. To the extent that any person acquires the right to receive

1 benefits under the QEBA, that right shall be no greater than the right of any unsecured general
2 creditor of the State of North Carolina or such other applicable employer under this Article.

3 (g) Administration. – The QEBA shall be administered by the Board of Trustees, which
4 shall compile and maintain all records necessary or appropriate for administration. The Board
5 of Trustees shall have full discretionary authority to interpret, construe, and implement the
6 QEBA and to adopt such rules and regulations as may be necessary or desirable to implement
7 the provisions of the QEBA in accordance with section 415(m) of the Internal Revenue Code.

8 (h) No Assignment. – Except for the application of the provisions of G.S. 110-136 and
9 G.S. 110-136.3, et seq., or in connection with a court-ordered equitable distribution under
10 G.S. 50-20, any supplemental benefit under this Article shall be exempt from levy and sale,
11 garnishment, attachment, or any other process, and shall be unassignable except as specifically
12 otherwise provided in this Chapter.

13 (i) Reservation of Power to Change. – The General Assembly reserves the right at any
14 time and, from time to time, to modify or amend, in whole or in part, any or all of the
15 provisions of the QEBA. No member of the Retirement System and no beneficiary of such a
16 member shall be deemed to have acquired any vested right to a supplemental payment under
17 this Article.

18 (j) Sunset of Eligibility to Participate in the QEBA. – No member of the Teachers' and
19 State Employees' Retirement System retiring on or after January 1, 2015, shall be eligible to
20 participate in the QEBA, and the Retirement System shall not pay any new retiree more
21 retirement benefits than allowed under the limitations of section 415(b) of the Internal Revenue
22 Code."

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

25 **"§ 128-38.10. Qualified Excess Benefit Arrangement.**

26 (a) The following words and phrases as used in this section, unless a different meaning
27 is plainly required by the context, have the following meanings:

28 (1) "Board of Trustees" means the Board of Trustees established by
29 G.S. 128-28.

30 (2) "Internal Revenue Code" means the Internal Revenue Code of 1986, as
31 amended from time to time.

32 (3) "Payee" means a retired member, or the survivor beneficiary of a member or
33 retired member.

34 (4) "Qualified Excess Benefit Arrangement" means the qualified excess benefit
35 arrangement under section 415(m) of the Internal Revenue Code established
36 under this Article.

37 (5) "Retirement System" means the North Carolina Local Governmental
38 Employees' Retirement System.

39 (b) The Qualified Excess Benefit Arrangement (QEBA) is established effective January
40 1, 2014, and placed under the management of the Board of Trustees. The purpose of the QEBA
41 is solely to provide the part of a retirement allowance or benefit that would otherwise have been
42 payable by the North Carolina Local Governmental Employees' Retirement System except for
43 the limitations under section 415(b) of the Internal Revenue Code. The QEBA, as set forth in
44 this section, is intended to constitute a qualified governmental excess benefit arrangement
45 under section 415(m) of the Internal Revenue Code.

46 (c) Eligibility to Participate in the QEBA. – Effective as of January 1, 2014, a payee
47 shall participate in the QEBA for any calendar year, or portion of the calendar year, during
48 which he or she receives a retirement allowance or benefit payment on and after January 1,
49 2014, from the North Carolina Local Governmental Employees' Retirement System that is
50 reduced due to the application of the maximum benefit provisions of section 415(b) of the
51 Internal Revenue Code. For purposes of the QEBA, a payee is a retired member or survivor

1 beneficiary of a member or retired member who is receiving monthly retirement benefit
2 payments from a Retirement System.

3 (d) Supplemental Benefit Payable Under the QEBA. – Effective January 1, 2014, a
4 payee shall receive each month, commencing on and after January 1, 2014, a monthly
5 supplemental benefit equal to the difference between the amount of that payee's monthly
6 retirement benefit paid under the North Carolina Local Governmental Employees' Retirement
7 System on and after January 1, 2014, and the amount that would have been payable to that
8 payee from the North Carolina Local Governmental Employees' Retirement System in that
9 month if not for the reduction due to the application of section 415(b) of the Internal Revenue
10 Code. That supplemental benefit shall be computed and payable under the same terms, at the
11 same time, and to the same person as the related benefit payable under the Retirement System.
12 A payee cannot elect to defer the receipt of all or any part of the supplemental payments due
13 under the QEBA. The supplemental benefit paid under this section shall be taxable under North
14 Carolina law in the same manner as the benefit paid under the North Carolina Local
15 Governmental Employees' Retirement System.

16 (e) Funding of the QEBA. – The QEBA shall be unfunded within the meaning of
17 federal tax laws. No payee contributions or deferrals, direct or indirect, by election or otherwise
18 shall be made or allowed. The Board of Trustees, upon the recommendation of the actuary
19 engaged by the Board of Trustees, shall determine the employer contributions required to pay
20 the benefits due under the QEBA for each fiscal year. The required contributions shall be paid
21 by all participating employers. The required contributions shall be deposited in a separate fund
22 from the fund into which regular employer contributions are deposited for the underlying
23 Retirement System. The benefit liability for the QEBA shall be determined each fiscal year and
24 assets shall not be accumulated to pay benefits in future fiscal years.

25 (f) Treatment of Unused Assets. – Any assets of the QEBA plan not used to pay
26 benefits in the current fiscal year shall be used for payment of the administrative expenses of
27 the QEBA for the current or future fiscal years or shall be paid to the Retirement System as an
28 additional employer contribution.

29 (g) Assets Subject to Claims of Creditors. – A payee, or a payee's beneficiary or heirs,
30 shall have no right to, and shall have no property interest in, any assets held to support the
31 liabilities created under this section. To the extent that any person acquires the right to receive
32 benefits under the QEBA, that right shall be no greater than the right of any unsecured general
33 creditor of the State of North Carolina or such other applicable employer under this section.

34 (h) Administration. – The QEBA shall be administered by the Board of Trustees, which
35 shall compile and maintain all records necessary or appropriate for administration. The Board
36 of Trustees shall have full discretionary authority to interpret, construe, and implement the
37 QEBA and to adopt such rules and regulations as may be necessary or desirable to implement
38 the provisions of the QEBA in accordance with section 415(m) of the Internal Revenue Code.

39 (i) No Assignment. – Except for the application of the provisions of G.S. 110-136 and
40 G.S. 110-136.3, et seq., or in connection with a court-ordered equitable distribution under
41 G.S. 50-20, any supplemental benefit under this section shall be exempt from levy and sale,
42 garnishment, attachment, or any other process, and shall be unassignable except as specifically
43 otherwise provided in this section.

44 (j) Reservation of Power to Change. – The General Assembly reserves the right at any
45 time and, from time to time, to modify or amend, in whole or in part, any or all of the
46 provisions of the QEBA. No member of the Retirement System and no beneficiary of such a
47 member shall be deemed to have acquired any vested right to a supplemental payment under
48 this section.

49 (k) Sunset of Eligibility to Participate in the QEBA. – No member of the North
50 Carolina Local Governmental Employees' Retirement System retiring on or after January 1,
51 2015, shall be eligible to participate in the QEBA, and the Retirement System shall not pay any

1 new retiree more retirement benefits than allowed under the limitations of section 415(b) of the
2 Internal Revenue Code."

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

4 "**§ 135-9. Exemption from garnishment, attachment, etc.**

5 Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et seq.,
6 and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a
7 person to a pension, or annuity, or a retirement allowance, to the return of contributions, the
8 pension, annuity or retirement allowance itself, any optional benefit or any other right accrued
9 or accruing to any person under the provisions of this Chapter, and the moneys in the various
10 funds created by this Chapter, are exempt from levy and sale, garnishment, attachment, or any
11 other process whatsoever, and shall be unassignable except as in this Chapter specifically
12 otherwise provided. Application for System approval of a domestic relations order dividing a
13 person's interest under the Retirement System shall be accompanied by an order consistent with
14 the system-designed template order provided on the System's Web site. Notwithstanding any
15 provisions to the contrary, any overpayment of benefits to a member in a State-administered
16 retirement system or the former Disability Salary Continuation Plan or the Disability Income
17 Plan of North Carolina may be offset against any retirement allowance, return of contributions
18 or any other right accruing under this Chapter to the same person, the person's estate, or
19 designated beneficiary."

20 **SECTION 4.(b)** G.S. 128-31 reads as rewritten:

21 "**§ 128-31. Exemptions from execution.**

22 Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et seq.,
23 and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a
24 person to a pension, an annuity, or a retirement allowance, to the return of contributions, the
25 pension, annuity or retirement allowance itself, any optional benefit or any other right accrued
26 or accruing to any person under the provisions of this Article, and the moneys in the various
27 funds created by this Article, are exempt from levy and sale, garnishment, attachment, or any
28 other process whatsoever, and shall be unassignable except as in this Article specifically
29 otherwise provided. Application for System approval of a domestic relations order dividing a
30 person's interest under the Retirement System shall be accompanied by an order consistent with
31 the system-designed template order provided on the System's Web site. Notwithstanding any
32 provisions to the contrary, any overpayment of benefits to a member in a State-administered
33 retirement system, the Disability Salary Continuation Plan, or the Disability Income Plan of
34 North Carolina may be offset against any retirement allowance, return of contributions or any
35 other right accruing under this Chapter to the same person, the person's estate, or designated
36 beneficiary."

37 **SECTION 5.** G.S. 135-3(8)d. reads as rewritten:

38 "d. Should a beneficiary who retired on an early or service retirement
39 allowance under this Chapter be restored to service as an employee
40 or teacher, then the retirement allowance shall cease as of the first of
41 the month following the month in which the beneficiary is restored to
42 service and the beneficiary shall become a member of the Retirement
43 System and shall contribute thereafter as allowed by law at the
44 uniform contribution payable by all members.

45 Upon his subsequent retirement, he shall be paid a retirement
46 allowance determined as follows:

- 47 1. For a member who earns at least three years' membership
48 service after restoration to service, creditable service earned
49 while in receipt of disability benefits under Article 6 of this
50 Chapter shall count as membership service for this purpose
51 only, and the retirement allowance shall be computed on the

1 basis of his compensation and service before and after the
 2 period of prior retirement without restrictions; provided, that
 3 if the prior allowance was based on a social security leveling
 4 payment option, the allowance shall be adjusted actuarially
 5 for the difference between the amount received under the
 6 optional payment and what would have been paid if the
 7 retirement allowance had been paid without optional
 8 modification. In the alternative, the member may receive a
 9 refund of the member's accumulated contributions for the
 10 period of service after restoration to service in accordance
 11 with G.S. 135-5(f).

- 12 2. For a member who does not earn three years' membership
 13 service after restoration to service, the retirement allowance
 14 shall be equal to the sum of the retirement allowance to which
 15 he would have been entitled had he not been restored to
 16 service, without modification of the election of an optional
 17 allowance previously made, and the retirement allowance that
 18 results from service earned since being restored to service;
 19 provided, that if the prior retirement allowance was based on
 20 a social security leveling payment option, the prior allowance
 21 shall be adjusted actuarially for the difference between the
 22 amount that would have been paid for each month had the
 23 payment not been suspended and what would have been paid
 24 if the retirement allowance had been paid without optional
 25 modification. In the alternative, the member may receive a
 26 refund of the member's accumulated contributions for the
 27 period of service after restoration to service in accordance
 28 with G.S. 135-5(f), or the member may allow this new
 29 account to remain inactive."

30 **SECTION 6.(a)** G.S. 135-4(ff) reads as rewritten:

31 "(ff) Retroactive Membership Service. – A member who is reinstated to service as an
 32 employee as defined in G.S. 135-1(10) or as a teacher as defined in G.S. 135-1(25)
 33 retroactively to the date of prior involuntary termination (~~with backpay and benefits~~) with back
 34 pay, as defined by the State Personnel Commission, and associated benefits may be allowed
 35 membership service, after submitting clear and convincing evidence of the
 36 reinstatement, reinstatement, payment of back pay, and restoration of associated benefits, as
 37 follows:

- 38 (1) When the reinstatement to service is by court order, final decision of an
 39 Administrative Law Judge, or decision of the State Personnel Commission,
 40 and is:
 41 a. Within 90 days of the involuntary termination, by the payment of
 42 employee and employer contributions that would have been paid; or
 43 ~~(2)~~b. After 90 days of the involuntary termination, by the payment of the
 44 employee and employer contributions that would have been paid plus
 45 interest compounded annually at a rate equal to the greater of the
 46 average yield on the pension accumulation fund for the preceding
 47 calendar year or the actuarial investment rate-of-return assumption,
 48 as adopted by the Board of Trustees.
 49 (2) When the reinstatement to service is by settlement agreement voluntarily
 50 entered into by the affected parties, by the payment of a lump-sum amount
 51 equal to the full liability of the service credits calculated on the basis of the

1 assumptions used for purposes of the actuarial valuation of the system's
2 liabilities, taking into account the retirement allowance arising on account of
3 the additional service credit commencing at the earliest age at which the
4 member could retire on an unreduced retirement allowance, as determined
5 by the Board of Trustees upon the advice of the consulting actuary, plus an
6 administrative fee to be set by the Board of Trustees. Notwithstanding the
7 foregoing provisions of this subsection that provide for the purchase of
8 service credits, the terms "full cost," "full liability," and "full actuarial cost"
9 include assumed annual postretirement allowance increases, as determined
10 by the Board of Trustees, from the earliest age at which a member could
11 retire on an unreduced service allowance.

12 Nothing contained in this subsection shall prevent an employer or member from paying all
13 or a part of the cost of the retroactive membership service; and to the extent paid by the
14 employer, the cost paid by the employer shall be credited to the pension accumulation fund;
15 and to the extent paid by the member, the cost paid by the member shall be credited to the
16 member's annuity savings account; provided, however, an employer does not discriminate
17 against any member or group of members in his employ in paying all or any part of the cost of
18 the retroactive membership service.

19 In the event a member received a return of accumulated contributions subsequent to an
20 involuntary termination as provided in G.S. 135-5(f), the member may redeposit, within 90
21 days of reinstatement retroactive to the date of prior involuntary termination, in the annuity
22 savings fund by single payment an amount equal to the total amount he previously withdrew
23 plus regular interest and restore the creditable service forfeited upon receiving his return of
24 accumulated contributions."

25 **SECTION 6.(b)** G.S. 128-26(v) reads as rewritten:

26 "(v) Retroactive Membership Service. – A member who is reinstated to service as an
27 employee as defined in G.S. 128-21(10) retroactively to the date of prior involuntary
28 termination (~~with backpay and benefits~~) with back pay and associated benefits may be allowed
29 membership service, after submitting clear and convincing evidence of the reinstatement,
30 payment of back pay, and restoration of associated benefits, as follows:

31 (1) When the reinstatement to service is by court order and is:

- 32 a. Within 90 days of the involuntary termination, by the payment of
33 employee and employer contributions that would have been paid; or
34 (2)b. After 90 days of the involuntary termination, by the payment of the
35 employee and employer contributions that would have been paid plus
36 interest compounded annually at a rate equal to the greater of the
37 average yield on the pension accumulation fund for the preceding
38 calendar year or the actuarial investment rate-of-return assumption,
39 as adopted by the Board of Trustees.

40 (2) When the reinstatement to service is by settlement agreement voluntarily
41 entered into by the affected parties, by the payment of a lump-sum amount
42 equal to the full liability of the service credits calculated on the basis of the
43 assumptions used for purposes of the actuarial valuation of the system's
44 liabilities, taking into account the retirement allowance arising on account of
45 the additional service credit commencing at the earliest age at which the
46 member could retire on an unreduced retirement allowance, as determined
47 by the Board of Trustees upon the advice of the consulting actuary, plus an
48 administrative fee to be set by the Board of Trustees. Notwithstanding the
49 foregoing provisions of this subsection that provide for the purchase of
50 service credits, the terms "full cost," "full liability," and "full actuarial cost"
51 include assumed annual postretirement allowance increases, as determined

1 by the Board of Trustees, from the earliest age at which a member could
2 retire on an unreduced service allowance.

3 Nothing contained in this subsection shall prevent an employer or member from paying all
4 or a part of the cost of the retroactive membership service; and to the extent paid by the
5 employer, the cost paid by the employer shall be credited to the pension accumulation fund;
6 and to the extent paid by the member, the cost paid by the member shall be credited to the
7 member's annuity savings account; provided, however, an employer does not discriminate
8 against any member or group of members in his employ in paying all or any part of the cost of
9 the retroactive membership service.

10 In the event a member received a return of accumulated contributions subsequent to an
11 involuntary termination as provided in G.S. 128-27(f), the member may redeposit, within 90
12 days of reinstatement retroactive to the date of prior involuntary termination, in the annuity
13 savings fund by single payment, an amount equal to the total amount he previously withdrew
14 plus regular interest and restore the creditable service forfeited upon receiving his return of
15 accumulated contributions."

16 **SECTION 7.** If any provision of this act or its application is held invalid, the
17 invalidity does not affect other provisions or applications of this act that can be given effect
18 without the invalid provisions or application, and to this end the provisions of this act are
19 severable.

20 **SECTION 8.** Section 3 of this act becomes effective January 1, 2014. Section 5 of
21 this act becomes effective January 1, 2012, and applies to persons retiring on or after that date.
22 The remainder of this act becomes effective July 1, 2013.