

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 985  
PROPOSED COMMITTEE SUBSTITUTE H985-PCS30482-SHp-33

Short Title: Retirement Technical Corrections Act of 2018.-AB

(Public)

Sponsors:

Referred to:

May 23, 2018

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE TECHNICAL CORRECTIONS AND OTHER CONFORMING AND  
3 CLARIFYING CHANGES TO THE LAWS GOVERNING THE TEACHERS' AND  
4 STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENT  
5 EMPLOYEES' RETIREMENT SYSTEM, AND THE STATE HEALTH PLAN FOR  
6 TEACHERS AND STATE EMPLOYEES AND TO OTHER RELATED STATUTES.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 135-105(g) reads as rewritten:

9 "(g) The Board of Trustees may extend the short-term disability benefits of a beneficiary  
10 beyond the benefit period of 365 days for an additional period of not more than 365 days;  
11 provided the Medical Board determines that the beneficiary's disability is temporary and likely  
12 to end within the extended period of short-term disability benefits. During the extended period  
13 of short-term disability benefits, payment of benefits shall be made by the Plan directly to the  
14 beneficiary. This extended period of short-term disability benefits shall be treated in the same  
15 manner as long-term disability payments for the purposes of G.S. 135-108."

16 **SECTION 2.** G.S. 128-27(e)(4) reads as rewritten:

17 "(4) As a condition to the receipt of the disability retirement allowance provided  
18 for in G.S. 128-27(d), (d1), (d2) and (d3) each member retired on a disability  
19 retirement allowance shall, on or before April 15 of each calendar year,  
20 provide the Board of Trustees with a statement of his or her income received  
21 as compensation for services, including fees, commissions or similar items,  
22 and income received from business, for the previous calendar year. Such  
23 statement shall be filed on a form as required by the Board of Trustees. The  
24 benefit payable to a beneficiary who does not or refuses to provide the  
25 information requested within ~~60~~120 days after such request may be suspended  
26 until the information so requested is provided, and should such refusal or  
27 failure to provide such information continue for ~~240~~180 days after such  
28 request, the right of a beneficiary to a benefit under the Article may be  
29 terminated.

30 The Director of the State Retirement Systems shall contact any State or  
31 federal agency which can provide information to substantiate the statement  
32 required to be submitted by this subdivision and may enter into agreements  
33 for the exchange of information."

34 **SECTION 3.(a)** G.S. 135-5(a3) reads as rewritten:

35 "(a3) Anti-Pension-Spiking Contribution-Based Benefit Cap. – Notwithstanding any other  
36 provision of this section, every service retirement allowance provided under this section for



\* H 9 8 5 - P C S 3 0 4 8 2 - S H P - 3 3 \*

1 members who retire on or after January 1, 2015, is subject to adjustment pursuant to a  
2 contribution-based benefit cap under this subsection. The Board of Trustees shall adopt a  
3 contribution-based benefit cap factor recommended by the actuary, based upon actual experience,  
4 such that no more than three-quarters of one percent (0.75%) of retirement allowances are  
5 expected to be capped. The Board of Trustees shall modify such factors every five years, as shall  
6 be deemed necessary, based upon the five-year experience study as required by G.S. 135-6(n).  
7 Prior to establishing a service retirement allowance under this section, the Board shall:

- 8 (1) Determine an amount equal to the member's accumulated contributions as  
9 required under G.S. 135-8(b)(1) for all years during which the member earned  
10 membership ~~services~~service, other than service earned through armed service  
11 credit under G.S. 135-4(f) or G.S. 135-4(g), used in the calculation of the  
12 retirement allowance that the member would receive under this section.
- 13 (2) Determine the amount of a single life annuity that is the actuarial equivalent  
14 of the amount determined under subdivision (1) of this subsection, adjusted  
15 for the age of the member at the time of retirement or, when appropriate, the  
16 age at the time of the member's death.
- 17 (3) Multiply the annuity amount determined under subdivision (2) of this  
18 subsection by the contribution-based benefit cap factor.
- 19 (4) Determine the amount of the retirement allowance that results from the  
20 member's membership service.

21 The product of the multiplication in subdivision (3) of this subsection is the member's  
22 contribution-based benefit cap. If the amount determined under subdivision (4) of this subsection  
23 exceeds the member's contribution-based benefit cap, the member's retirement allowance shall  
24 be reduced by an amount equal to the difference between the contribution-based benefit cap and  
25 the amount determined under subdivision (4) of this subsection.

26 Notwithstanding the foregoing, the retirement allowance of a member with an average final  
27 compensation of less than one hundred thousand dollars (\$100,000), as hereinafter indexed, shall  
28 not be subject to the contribution-based benefit cap. The minimum average final compensation  
29 necessary for a retirement allowance to be subject to the contribution-based benefit cap shall be  
30 increased on January 1 each year by the percent change between the ~~December~~June Consumer  
31 Price Index in the year prior to retirement and the ~~December~~June Consumer Price Index in the  
32 fiscal year most recently ended, calculated to the nearest tenth of a percent (0.1%), provided that  
33 this percent change is positive.

34 Notwithstanding the foregoing, the retirement allowance of a member who became a member  
35 before January 1, 2015, or who has not earned at least five years of membership service in the  
36 Retirement System after January 1, 2015, shall not be reduced; however, the member's last  
37 employer shall be required to make an additional contribution as specified in G.S. 135-8(f)(2)f.,  
38 if applicable."

39 **SECTION 3.(b)** G.S. 128-27(a3) reads as rewritten:

40 "(a3) Anti-Pension-Spiking Contribution-Based Benefit Cap. – Notwithstanding any other  
41 provision of this section, every service retirement allowance provided under this section for  
42 members who retire on or after January 1, 2015, is subject to adjustment pursuant to a  
43 contribution-based benefit cap under this subsection. The Board of Trustees shall adopt a  
44 contribution-based benefit cap factor recommended by the actuary, based upon actual experience,  
45 such that no more than three-quarters of one percent (0.75%) of retirement allowances are  
46 expected to be capped. The Board of Trustees shall modify such factors every five years, as shall  
47 be deemed necessary, based upon the five-year experience study as required by G.S. 128-28(o).

48 Prior to establishing a service retirement allowance under this section, the Board shall:

- 49 (1) Determine an amount equal to the member's accumulated contributions as  
50 required under G.S. 128-30(b)(1) for all years during which the member  
51 earned membership ~~services~~service, other than service earned through armed

1 service credit under G.S. 128-26(a1) or G.S. 128-26(j1), used in the  
2 calculation of the retirement allowance that the member would receive under  
3 this section.

4 (2) Determine the amount of a single life annuity that is the actuarial equivalent  
5 of the amount determined under subdivision (1) of this subsection, adjusted  
6 for the age of the member at the time of retirement or, when appropriate, the  
7 age at the time of the member's death.

8 (3) Multiply the annuity amount determined under subdivision (2) of this  
9 subsection by the contribution-based benefit cap factor.

10 (4) Determine the amount of the retirement allowance that results from the  
11 member's membership service.

12 The product of the multiplication in subdivision (3) of this subsection is the member's  
13 contribution-based benefit cap. If the amount determined under subdivision (4) of this subsection  
14 exceeds the member's contribution-based benefit cap, the member's retirement allowance shall  
15 be reduced by an amount equal to the difference between the contribution-based benefit cap and  
16 the amount determined under subdivision (4) of this subsection.

17 Notwithstanding the foregoing, the retirement allowance of a member with an average final  
18 compensation of less than one hundred thousand dollars (\$100,000), as hereinafter indexed, shall  
19 not be subject to the contribution-based benefit cap. The minimum average final compensation  
20 necessary for a retirement allowance to be subject to the contribution-based benefit cap shall be  
21 increased on January 1 each year by the percent change between the ~~December~~June Consumer  
22 Price Index in the year prior to retirement and the ~~December~~June Consumer Price Index in the  
23 fiscal year most recently ended, calculated to the nearest tenth of a percent (0.1%), provided that  
24 this percent change is positive.

25 Notwithstanding the foregoing, the retirement allowance of a member who became a member  
26 before January 1, 2015, or who has not earned at least five years of membership service in the  
27 Retirement System after January 1, 2015, shall not be reduced; however, the member's last  
28 employer shall be required to make an additional contribution as specified in G.S. 128-30(g)(2)b.,  
29 if applicable."

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

31 "(16) "Retirement" under this Chapter shall mean the commencement of monthly  
32 retirement benefits, along with the termination of employment and the  
33 complete separation from active service with no intent or agreement,  
34 expressed or implied, to return to service. A retirement allowance under the  
35 provisions of this Chapter may only be granted upon retirement of a member.  
36 In order for a member's retirement to become effective in any month, the  
37 member must perform no work in a position covered by this Article or by an  
38 Optional Retirement Program established under G.S. 135-5.1 or G.S. 135-5.4  
39 at any time during the same month immediately following the effective first  
40 day of retirement."

41 **SECTION 5.** G.S. 120-4.14(2) is repealed.

42 **SECTION 6.** G.S. 135-48.23(d) is repealed.

43 **SECTION 7.** G.S. 135-4(c) is repealed.

44 **SECTION 8.(a)** G.S. 135-6.1(e) reads as rewritten:

45 "(e) The Retirement Systems Division of the Department of State Treasurer may disclose  
46 the name and mailing address of former State and local government employees, former public  
47 school employees, or former community college employees to domiciled, nonprofit  
48 organizations representing 10,000 or more retired State government, local government, or public  
49 school employees."

50 **SECTION 8.(b)** G.S. 128-33.1(e) reads as rewritten:

1       "(e) The Retirement Systems Division of the Department of State Treasurer may disclose  
2 the name and mailing address of former State and local government employees, former public  
3 school employees, or former community college employees to domiciled, nonprofit  
4 organizations representing 10,000 or more retired State government, local government, or public  
5 school employees."

6       **SECTION 8.(c)** This section is effective July 22, 2016.

7       **SECTION 9.(a)** G.S. 58-86-55(d1) reads as rewritten:

8       "(d1) Benefits shall be paid in the following manner when a member is killed in the line of  
9 duty and the requirements of Article 12A of Chapter 143 of the General Statutes are met:

10       (1) If the member had been receiving a monthly pension fund benefit prior to  
11 being killed in the line of duty, there shall be paid to the member's principal  
12 beneficiary, if only one principal beneficiary is ~~eligible~~, eligible and has not  
13 accepted a return of contributions, an amount of one hundred seventy dollars  
14 (\$170.00) per month beginning the month following the member's month of  
15 death, payable until the beneficiary's death.

16       (2) If the member had been receiving a monthly pension fund benefit prior to  
17 being killed in the line of duty and the beneficiary is not payable as described  
18 in subdivision (1) of this subsection, a lump sum payment equal to the  
19 difference between the amount paid into the member's separate account by or  
20 on behalf of the member and the amount received by the member as a  
21 pensioner will be paid to the eligible beneficiaries, or if there are no eligible  
22 beneficiaries, shall be paid to the member's estate.

23       (3) If the member had not yet begun receiving a monthly benefit prior to being  
24 killed in the line of duty, there shall be paid to the member's principal  
25 beneficiary, if only one principal beneficiary is ~~eligible~~, eligible and has not  
26 accepted a return of contributions, an amount of one hundred seventy dollars  
27 (\$170.00) per month beginning the month following the month the member  
28 would have attained age 55, or if the member had already attained age 55,  
29 beginning the month following the member's month of death, payable until  
30 the beneficiary's death.

31       (4) If the member had not begun receiving a monthly benefit prior to being killed  
32 in the line of duty and the beneficiary is not payable as described in  
33 subdivision (3) of this subsection, a lump sum payment equal to the member's  
34 contributions will be paid to the eligible beneficiaries, or if there are no  
35 eligible beneficiaries, a return of the contributions shall be paid to the  
36 member's estate.

37       A beneficiary under this subsection shall not be required to make the monthly payment of ten  
38 dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40 after the member has been killed  
39 in the line of duty."

40       **SECTION 9.(b)** This section becomes effective July 1, 2018.

41       **SECTION 10.** G.S. 135-1(20) reads as rewritten:

42       "(20) "Retirement" under this Chapter, except as otherwise provided, means the  
43 commencement of monthly retirement benefits along with termination of  
44 employment and the complete separation from active service with no intent or  
45 agreement, express or implied, to return to service. A retirement allowance  
46 under the provisions of this Chapter may only be granted upon retirement of  
47 a member. In order for a member's retirement to become effective in any  
48 month, the member must perform no work for an employer, including  
49 part-time, temporary, substitute, or contractor work, at any time during the six  
50 months immediately following the effective date of retirement. ~~For purposes~~  
51 ~~of this subdivision, working as a member of a school board, board of trustees~~

1 of a community college, board of trustees of any constituent institution of The  
2 University of North Carolina, as an unpaid bona fide volunteer in a local  
3 school administrative unit, or as an unpaid bona fide volunteer guardian ad  
4 litem in the guardian ad litem program shall not be considered service or work,  
5 and volunteering in positions normally designated as unpaid bona fide  
6 volunteer positions during the six months immediately following the effective  
7 date of retirement shall not be considered service. A member who is a full-time  
8 faculty member of The University of North Carolina may effect a retirement  
9 allowance under this Chapter, notwithstanding the six-month requirement  
10 above, provided the member immediately enters the University's Phased  
11 Retirement Program for Tenured Faculty as that program existed on May 25,  
12 2011. For purposes of this subdivision, all of the following shall not be  
13 considered service or work:

- 14 a. Serving as an unpaid bona fide volunteer in a local school  
15 administrative unit.
- 16 b. Serving as an unpaid bona fide volunteer guardian ad litem in the  
17 guardian ad litem program.
- 18 c. Serving on an authority, board, commission, committee, council, or  
19 other body of the State or of one or more counties, cities, local school  
20 administrative units, community colleges, constituent institutions of  
21 The University of North Carolina, or other political subdivisions or  
22 public corporations in the State, that is authorized to function as  
23 legislative, policy-making, quasi-judicial, administrative, or advisory  
24 body in a position that does not require membership in the Retirement  
25 System.
- 26 d. Volunteering in a position normally designated as an unpaid bona fide  
27 volunteer position."

28 **SECTION 11.(a)** 135-5(m2) reads as rewritten:

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

36 A member who became a member of the Supplemental Retirement Income Plan prior to  
37 retirement and who remains a member of the Supplemental Retirement Income Plan may make  
38 a one-time, irrevocable election to transfer eligible balances, not including any Roth after-tax  
39 contributions and the earnings thereon, from any of the following plans to the Supplemental  
40 Retirement Income Plan, subject to the applicable requirements of the Supplemental Retirement  
41 Income Plan, and then through the Supplemental Retirement Income Plan to this Retirement  
42 System: (i) a plan participating in the North Carolina Public School Teachers' and Professional  
43 Educators' Investment Plan; (ii) a plan described in section 403(b) of the Internal Revenue Code;  
44 (iii) a plan described in section 457(b) of the Internal Revenue Code that is maintained by a state,  
45 political subdivision of a state, or any agency or instrumentality of a state or political subdivision  
46 of a state; (iv) an individual retirement account or annuity described in section 408(a) or section  
47 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be  
48 includible in gross income; or (v) a tax-qualified plan described in section 401(a) or section  
49 403(a) of the Internal Revenue Code.

50 Notwithstanding anything to the contrary, a member may not transfer such amounts as will  
51 cause the member's retirement allowance under the System to exceed the amount allowable under

1 G.S. 135-18.7(b). The Board of Trustees may establish a minimum amount that must be  
2 transferred if a transfer is elected. The member may elect a special retirement allowance with no  
3 postretirement increases or a special retirement allowance with annual postretirement increases  
4 equal to the annual increase in the U.S. Consumer Price Index. Postretirement increases on any  
5 other allowance will not apply to the special retirement allowance. The Board of Trustees shall  
6 provide educational materials to the members who apply for the transfer authorized by this  
7 section. Those materials shall describe the special retirement allowance and shall explain the  
8 relationship between the transferred balance and the monthly benefit and how the member's heirs  
9 may be impacted by the election to make this transfer and any costs and fees involved.

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

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

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

- 36 (1) A member may elect to receive the special retirement allowance for life but  
37 with payments guaranteed for a number of months to be specified by the Board  
38 of Trustees. Under this plan, if the member dies before the expiration of the  
39 specified number of months, the special retirement allowance will continue to  
40 be paid to the member's designated beneficiary for the life of the beneficiary,  
41 if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected, the member's  
42 designated beneficiary will receive the benefit only for the remainder of the  
43 specified number of months. If the member's designated beneficiary dies  
44 before receiving payments for the specified number of months, any remaining  
45 payments will be paid to the member's estate.
- 46 (2) A member may elect to receive the special retirement allowance for life but is  
47 guaranteed that the sum of the special allowance payments will equal the total  
48 of the transferred amount. Under this payment option, if the member dies  
49 before receiving the total transferred amount, the special retirement allowance  
50 will continue to be paid to the member's designated beneficiary for the life of  
51 the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected,

1 the member's designated beneficiary or the member's estate shall be paid any  
2 remaining balance of the transferred amount.

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

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

10 **SECTION 11.(b)** G.S. 128-27(m2) reads as rewritten:

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

18 A member who became a member of the Supplemental Retirement Income Plan prior to  
19 retirement and who remains a member of the Supplemental Retirement Income Plan may make  
20 a one-time, irrevocable election to transfer eligible balances, not including any Roth after-tax  
21 contributions and the earnings thereon, from any of the following plans to the Supplemental  
22 Retirement Income Plan, subject to the applicable requirements of the Supplemental Retirement  
23 Income Plan, and then through the Supplemental Retirement Income Plan to this Retirement  
24 System (i) a plan participating in the North Carolina Public School Teachers' and Professional  
25 Educators' Investment Plan; (ii) a plan described in section 403(b) of the Internal Revenue Code;  
26 (iii) a plan described in section 457(b) of the Internal Revenue Code that is maintained by a state,  
27 political subdivision of a state, or any agency or instrumentality of a state or political subdivision  
28 of a state; (iv) an individual retirement account or annuity described in section 408(a) or section  
29 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be  
30 includible in gross income; or (v) a tax-qualified plan described in section 401(a) or section  
31 403(a) of the Internal Revenue Code.

32 Notwithstanding anything to the contrary, a member may not transfer such amounts as will  
33 cause the member's retirement allowance under the System to exceed the amount allowable under  
34 G.S. 128-38.2(b). The Board of Trustees may establish a minimum amount that must be  
35 transferred if a transfer is elected. The member may elect a special retirement allowance with no  
36 postretirement increases or a special retirement allowance with annual postretirement increases  
37 equal to the annual increase in the U.S. Consumer Price Index. Postretirement increases on any  
38 other allowance will not apply to the special retirement allowance. The Board of Trustees shall  
39 provide educational materials to the members who apply for the transfer authorized by this  
40 section. Those materials shall describe the special retirement allowance and shall explain the  
41 relationship between the transferred balance and the monthly benefit and how the member's heirs  
42 may be impacted by the election to make this transfer and any costs and fees involved.

43 For the purpose of determining the special retirement allowance, the Board of Trustees shall  
44 adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality  
45 and such other tables as may be necessary based upon actual experience. A single set of mortality  
46 and such other tables will be used for all members, with factors differing only based on the age  
47 of the member and the election of postretirement increases. The Board of Trustees shall modify  
48 the mortality and such other tables every five years, as shall be deemed necessary, based upon  
49 the five-year experience study as required by G.S. 128-28(o). Provided, however, a member who  
50 transfers the member's eligible accumulated contributions from an eligible retirement plan  
51 pursuant to this subsection to this Retirement System shall be taxed for North Carolina State

1 Income Tax purposes on the special retirement allowance the same as if that special retirement  
2 allowance had been paid directly by the eligible plan or the plan through which the transfer was  
3 made, whichever is most favorable to the member. The Local Governmental Employees'  
4 Retirement System shall be responsible to determine the taxable amount, if any, and report  
5 accordingly.

6 The special retirement allowance shall continue for the life of the member and the beneficiary  
7 designated to receive a monthly survivorship benefit under Option 2, 3 or 6 as provided in  
8 G.S. 128-27(g), if any. The Board of Trustees, however, shall establish two payment options that  
9 guarantee payments as follows:

10 (1) A member may elect to receive the special retirement allowance for life but  
11 with payments guaranteed for a number of months to be specified by the Board  
12 of Trustees. Under this plan, if the member dies before the expiration of the  
13 specified number of months, the special retirement allowance will continue to  
14 be paid to the member's designated beneficiary for the life of the beneficiary,  
15 if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected, the member's  
16 designated beneficiary will receive the benefit only for the remainder of the  
17 specified number of months. If the member's designated beneficiary dies  
18 before receiving payments for the specified number of months, any remaining  
19 payments will be paid to the member's estate.

20 (2) A member may elect to receive the special retirement allowance for life but is  
21 guaranteed that the sum of the special allowance payments will equal the total  
22 of the transferred amount. Under this payment option, if the member dies  
23 before receiving the total transferred amount, the special retirement allowance  
24 will continue to be paid to the member's designated beneficiary for the life of  
25 the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected,  
26 the member's designated beneficiary or the member's estate shall be paid any  
27 remaining balance of the transferred amount.

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

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

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

43 **SECTION 12.** G.S. 128-28(g) reads as rewritten:

44 "(g) Rules and Regulations. – Subject to the limitations of this ~~Chapter~~, Article, the Board  
45 of Trustees shall, from time to time, establish rules and regulations for the administration of the  
46 funds created by this ~~Chapter~~ Article and for the transaction of its business. The Board of Trustees  
47 shall also, from time to time, in its discretion, adopt rules and regulations to prevent injustices  
48 and inequalities which might otherwise arise in the administration of this ~~Chapter~~ Article."

49 **SECTION 13.** G.S. 128-30(j) reads as rewritten:

50 "(j) Pension Spiking Report. – Upon receipt of a report from the Retirement System  
51 generated pursuant to ~~G.S. 135-8(f)(2)f., G.S. 128-30(g)(2)b.,~~ containing a list of employees for



1 whom the employer made a contribution to the North Carolina Local Governmental Employees'  
2 Retirement System that is likely to require an additional employer contribution should the  
3 employee elect to retire in the following 12 months, the employer's chief financial officer shall  
4 transmit a copy of the report to the governing body of the employer, if applicable."

5 **SECTION 14.** G.S. 135-4(jj) reads as rewritten:

6 "(jj) Contribution-Based Benefit Cap Purchase Provision. – If a member's retirement  
7 allowance is subject to an adjustment pursuant to the contribution-based benefit cap established  
8 in ~~G.S. 128-27(a3)~~, G.S. 135-5(a3), the retirement system shall notify the member and the  
9 member's employer that the member's retirement allowance has been capped. The retirement  
10 system shall compute and notify the member and the member's employer of the total additional  
11 amount the member would need to contribute in order to make the member not subject to the  
12 contribution-based benefit cap. This total additional amount shall be the actuarial equivalent of  
13 a single life annuity adjusted for the age of the member at the time of retirement, or when  
14 appropriate, the age at the time of the member's death that would have had to have been purchased  
15 to increase the member's benefit to the pre-cap level. Except as otherwise provided in this  
16 subsection, the member shall have until 90 days after notification regarding this additional  
17 amount or until 90 days after the effective date of retirement, whichever is later, to submit a lump  
18 sum payment to the annuity savings fund in order for the retirement system to restore the  
19 retirement allowance to the uncapped amount. Nothing contained in this subsection shall prevent  
20 an employer from paying all or part of the cost of the amount necessary to restore the member's  
21 retirement allowance to the pre-cap amount. Notwithstanding the requirement that the payment  
22 be made as a lump sum, the retirement system may allow an employer of a member who became  
23 a member before January 1, 2015, or who has not earned at least five years of membership service  
24 in the retirement system after January 1, 2015, to pay the lump-sum amount required in this  
25 subsection on an installment payment plan under one of the following two options:

- 26 (1) Option one. – An installment payment plan ending no more than 15 months  
27 after the retirement of the member.
- 28 (2) Option two. – An installment payment plan ending no more than 27 months  
29 after the retirement of the member. Interest shall be assessed on the principal  
30 amount of the contribution-based benefit cap liability owed and applied to any  
31 installment payment plan term exceeding 12 months at a rate corresponding  
32 with the interest rate assumption based on the most recent actuarial valuation  
33 approved by the Board of Trustees.

34 Payment under both installment plans must be completed regardless of whether the member  
35 continues to receive a recurring monthly retirement benefit through the end of the installment  
36 period."

37 **SECTION 15.** Except as otherwise provided, this act is effective when it becomes  
38 law.