

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 399
PROPOSED COMMITTEE SUBSTITUTE S399-PCS15324-RQ-9

Short Title: Rehire High-Need Teachers.

(Public)

Sponsors:

Referred to:

April 1, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW FOR RETIRED TEACHERS TO RETURN TO WORK IN HIGH-NEED
3 SCHOOLS WITHOUT ADVERSELY IMPACTING THE RETIRED TEACHERS'
4 BENEFITS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 20 of Chapter 115C of the General Statutes is amended by
7 adding a new section to read:

8 "§ 115C-302.4. High-need retired teachers.

9 (a) Definitions. – The following definitions apply in this section:

10 (1) High-need retired teacher. – A beneficiary of the Teachers' and State
11 Employees' Retirement System of North Carolina who meets both of the
12 following requirements:

13 a. Retired on or before February 1, 2019, after attaining (i) the age of at
14 least 65 with five years of creditable service, (ii) the age of at least 60
15 with 25 years of creditable service, or (iii) 30 years of creditable
16 service.

17 b. Is reemployed by a local board of education to teach at a high-need
18 school.

19 (2) High-need school. – A school that, at any point on or after July 1, 2017, meets
20 one of the following criteria:

21 a. Is a Title I school. As used in this sub-subdivision, a Title I school is a
22 school identified under Part A of Title I of the Elementary and
23 Secondary Education Act of 1965, as amended.

24 b. Receives an overall school performance grade of D or F, as calculated
25 by the State Board of Education pursuant to G.S. 115C-83.15(d).

26 (3) STEM. – Science, technology, engineering, and mathematics.

27 (b) Salary Level. – A high-need retired teacher shall be compensated as follows:

28 (1) Except as provided in subdivision (2) of this subsection, a high-need retired
29 teacher shall be paid on the first step of the teacher salary schedule.

30 (2) If a high-need retired teacher serves as a teacher in any of the following
31 licensure areas, he or she shall be paid on the sixth step of the teacher salary
32 schedule:

33 a. STEM.

34 b. Special education.

35 (c) No State Salary Supplements or Increase in Salary. – A high-need retired teacher shall
36 not receive any State salary supplement or State bonus. A high-need retired teacher shall not



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1 move beyond the salary steps prescribed by subsection (b) of this section, regardless of the length
2 of time spent as a high-need retired teacher.

3 (d) Local Salary Supplement. – A high-need retired teacher shall receive any local salary
4 supplements that are given to employees of the local board of education.

5 (e) Term of Contract. – A contract between the local board of education and a high-need
6 retired teacher shall be for a term of no more than one school year.

7 (f) Identification of STEM and Special Education Licensure Areas. – The Superintendent
8 of Public Instruction shall identify and provide to each local school administrative unit a list of
9 STEM and special education licensure areas that qualify for reemployment pursuant to
10 subsection (b)(2) of this section. Local school administrative units shall make the list of STEM
11 and special education licensure areas available to high-need retired teachers."

12 **SECTION 2.(a)** G.S. 135-3(8) is amended by adding a new sub-subdivision to read:

13 "g. Notwithstanding sub-subdivisions c. and d. of this subdivision, the
14 computation of postretirement earnings of a beneficiary under this
15 subdivision, who retired on or before February 1, 2019, and who has
16 been retired at least six months, shall not include earnings while the
17 beneficiary is employed to teach as a high-need retired teacher, as
18 defined under G.S. 115C-302.4(a)(1). The Department of Public
19 Instruction shall certify to the Retirement System that a beneficiary is
20 employed to teach by a local board of education as a high-need retired
21 teacher, as defined under G.S. 115C-302.4(a)(1).

22 Beneficiaries employed under this sub-subdivision are not entitled
23 to any benefits otherwise provided under this Chapter as a result of this
24 period of employment."

25 **SECTION 2.(b)** G.S. 135-3(8)c1. reads as rewritten:

26 "c1. Within 90 days of the end of each month in which a beneficiary is
27 reemployed under the provisions of ~~sub-subdivision~~ sub-subdivisions
28 c. and g. of this subdivision, each employer shall provide a report for
29 that month on each reemployed beneficiary, including the terms of the
30 reemployment, the date of the reemployment, and the amount of the
31 monthly compensation. If such a report is not received within the
32 required 90 days, the Board may assess the employer with a penalty of
33 ten percent (10%) of the compensation of the unreported reemployed
34 beneficiaries during the months for which the employer did not report
35 the reemployed beneficiaries, with a minimum penalty of twenty-five
36 dollars (\$25.00). If after being assessed a penalty, an employer
37 provides clear and convincing evidence that the failure to report
38 resulted from a lack of oversight or some other event beyond the
39 employer's control and was not a deliberate attempt to omit the
40 reporting of reemployed beneficiaries, the Board may reduce the
41 penalty to not less than two percent (2%) of the compensation of the
42 unreported reemployed beneficiaries during the months for which the
43 employer failed to report, with a minimum penalty of twenty-five
44 dollars (\$25.00). Upon receipt by the employer of notice that a penalty
45 has been assessed under this sub-subdivision, the employer shall remit
46 the payment of the penalty to the Retirement System, in one lump sum,
47 no later than 90 days from the date of the notice."

48 **SECTION 3.** G.S. 135-1(10) reads as rewritten:

49 "(10) "Employee" shall mean all full-time employees, agents or officers of the State
50 of North Carolina or any of its departments, bureaus and institutions other than
51 educational, whether such employees are elected, appointed or employed:

1 Provided that the term "employee" shall not include any person who is a
2 member of the Consolidated Judicial Retirement System, any member of the
3 General ~~Assembly or Assembly~~, any part-time or temporary ~~employee-~~
4 ~~employee, or any high-need retired teacher as defined under~~
5 G.S. 115C-302.4(a)(1). Notwithstanding any other provision of law,
6 "employee" shall include all employees of the General Assembly except
7 participants in the Legislative Intern Program, pages, and beneficiaries in
8 receipt of a monthly retirement allowance under this Chapter who are
9 reemployed on a temporary basis. "Employee" also includes any participant
10 whose employment is interrupted by reason of service in the Uniformed
11 Services, as that term is defined in section 4303(16) of the Uniformed Services
12 Employment and Reemployment Rights Act, Public Law 103-353, if that
13 participant was an employee at the time of the interruption; if the participant
14 does not return immediately after that service to employment with a covered
15 employer in this System, then the participant shall be deemed "in service" until
16 the date on which the participant was first eligible to be separated or released
17 from his or her involuntary military service. In all cases of doubt, the Board
18 of Trustees shall determine whether any person is an employee as defined in
19 this Chapter. "Employee" shall also mean every full-time civilian employee
20 of the North Carolina National Guard who is employed pursuant to section
21 709 of Title 32 of the United States Code and paid from federal appropriated
22 funds, but held by the federal authorities not to be a federal employee:
23 Provided, however, that the authority or agency paying the salaries of such
24 employees shall deduct or cause to be deducted from each employee's salary
25 the employee's contribution in accordance with applicable provisions of
26 G.S. 135-8 and remit the same, either directly or indirectly, to the Retirement
27 System; coverage of employees described in this sentence shall commence
28 upon the first day of the calendar year or fiscal year, whichever is earlier, next
29 following the date of execution of an agreement between the Secretary of
30 Defense of the United States and the Adjutant General of the State acting for
31 the Governor in behalf of the State, but no credit shall be allowed pursuant to
32 this sentence for any service previously rendered in the above-described
33 capacity as a civilian employee of the North Carolina National Guard:
34 Provided, further, that the Adjutant General, in the Adjutant General's
35 discretion, may terminate the Retirement System coverage of the
36 above-described North Carolina National Guard employees if a federal
37 retirement system is established for such employees and the Adjutant General
38 elects to secure coverage of such employees under such federal retirement
39 system. Any full-time civilian employee of the North Carolina National Guard
40 described above who is now or hereafter may become a member of the
41 Retirement System may secure Retirement System credit for such service as
42 a North Carolina National Guard civilian employee for the period preceding
43 the time when such employees became eligible for Retirement System
44 coverage by paying to the Retirement System an amount equal to that which
45 would have constituted employee contributions if the employee had been a
46 member during the years of ineligibility, plus interest. Employees of State
47 agencies, departments, institutions, boards, and commissions who are
48 employed in permanent job positions on a recurring basis must work at least
49 30 hours per week for nine or more months per calendar year in order to be
50 covered by the provisions of this ~~subdivision~~ subdivision, except that no
51 high-need retired teacher as defined under G.S. 115C-302.4(a)(1) shall be

1 considered an employee. On and after August 1, 2001, a person who is a
2 nonimmigrant alien and who otherwise meets the requirements of this
3 subdivision shall not be excluded from the definition of "employee" solely
4 because the person holds a temporary or time-limited visa."

5 **SECTION 4.** G.S. 135-48.40(b)(1a) reads as rewritten:

6 "(1a) All retirees who (i) are employed by an employing unit that elects to be
7 covered by this subdivision, (ii) do not qualify for coverage under subdivision
8 (1) of this subsection, and (iii) are determined to be "full-time" by their
9 employing unit in accordance with section 4980H of the Internal Revenue
10 Code and the applicable regulations, as ~~amended~~-amended, or are high-need
11 retired teachers, as defined under G.S. 115C-302.4(a)(1). The employing unit
12 shall pay the employer premiums for retirees who enroll under this
13 subdivision."

14 **SECTION 5.** If the Internal Revenue Service determines that the provisions of
15 G.S. 135-3(8)g., as enacted by this act, relating to the computation of postretirement earnings of
16 retired teachers jeopardize the status of the Teachers' and State Employees' Retirement System
17 of North Carolina under the Internal Revenue Code, then this act is repealed 30 days from receipt
18 of that determination by the State Treasurer. Upon receipt of that determination, the State
19 Treasurer shall notify the Revisor of Statutes of the determination and the date of receipt. Within
20 one business day of receipt of the determination, the State Treasurer shall notify all local school
21 administrative units of the repeal of this act and shall publicly notice the receipt of this
22 information on the Department of State Treasurer Web site. Within one business day of receipt
23 of the notice from the State Treasurer, a local school administrative unit shall notify all high-need
24 retired teachers employed by its local board of education of the repeal of this act.

25 **SECTION 6.** This act becomes effective July 1, 2019, and expires June 30, 2021.