

GENERAL ASSEMBLY OF NORTH CAROLINA  
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SENATE BILL DRS45416-MRp-166A

Short Title: Retirement Protection Act.

(Public)

Sponsors: Senators Wells, Edwards, and Perry (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CERTAIN CHANGES TO PRESERVE THE INTEGRITY OF AND  
3 CLARIFY THE POLICY OBJECTIVES OF THE GENERAL ASSEMBLY FOR THE  
4 TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL  
5 GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE CONSOLIDATED  
6 JUDICIAL RETIREMENT SYSTEM, AND THE LEGISLATIVE RETIREMENT  
7 SYSTEM.

8 The General Assembly of North Carolina enacts:

9 SECTION 1.1.(a) G.S. 135-6(l) reads as rewritten:

10 "(l) Duties of Actuary. – The Board of Trustees shall designate an actuary who shall be  
11 the technical adviser of the Board of Trustees on matters regarding the operation of the funds  
12 created by the provisions of this Chapter and shall perform such other duties as are required in  
13 connection therewith. ~~For purposes of the annual valuation of System assets, the~~ The experience  
14 ~~studies, and studies and~~ all other actuarial calculations required by this Chapter, and all the  
15 assumptions used by the System's actuary, including mortality tables, interest rates, annuity  
16 factors, the contribution-based benefit cap factor, and employer contribution rates, shall be set  
17 out in the actuary's periodic ~~reports~~ reports, annual valuations of System assets, or other materials  
18 provided to the Board of Trustees. ~~These~~ Notwithstanding Article 2A of Chapter 150B of the  
19 General Statutes, these materials, once accepted by the Board, shall be considered part of the  
20 Plan documentation governing this Retirement System; ~~similarly, the System and shall be~~  
21 effective the first day of the month following adoption unless a different date is specified in the  
22 adopting resolution. The effective date shall not retroactively affect a contribution rate. The  
23 Board's minutes relative to all actuarial assumptions used by the System shall also be considered  
24 part of the Plan documentation governing this Retirement System, with the result of precluding  
25 any employer discretion in the determination of benefits payable hereunder, consistent with  
26 Section 401(a)(25) of the Internal Revenue Code."

27 SECTION 1.1.(b) G.S. 128-28(m) reads as rewritten:

28 "(m) Duties of Actuary. – The Board of Trustees shall designate an actuary who shall be  
29 the technical adviser of the Board of Trustees on matters regarding the operation of the funds  
30 created by the provisions of this Chapter and shall perform such other duties as are required in  
31 connection therewith. ~~For purposes of the annual valuation of System assets, the~~ The experience  
32 ~~studies, and studies and~~ all other actuarial calculations required by this Chapter, and all the  
33 assumptions used by the System's actuary, including mortality tables, interest rates, annuity  
34 factors, the contribution-based benefit cap factor, and employer contribution rates, shall be set  
35 out in the actuary's periodic ~~reports~~ reports, annual valuations of System assets, or other materials  
36 provided to the Board of Trustees. ~~These~~ Notwithstanding Article 2A of Chapter 150B of the



1 General Statutes, these materials, once accepted by the Board, shall be considered part of the  
 2 Plan documentation governing this Retirement System; similarly, the System and shall be  
 3 effective the first day of the month following adoption unless a different date is specified in the  
 4 adopting resolution. The effective date shall not retroactively affect a contribution rate. The  
 5 Board's minutes relative to all actuarial assumptions used by the System shall also be considered  
 6 part of the Plan documentation governing this Retirement System, with the result of precluding  
 7 any employer discretion in the determination of benefits payable hereunder, consistent with  
 8 Section 401(a)(25) of the Internal Revenue Code."

9 **SECTION 1.1.(c)** G.S. 150B-1(d) reads as rewritten:

10 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the  
 11 following:

12 ...

13 (30) The Retirement System Boards of Trustees established under G.S. 128-28 and  
 14 G.S. 135-6 when adopting actuarial tables, assumptions, and  
 15 contribution-based benefit cap factors after presentation of recommendations  
 16 from the actuary. This exemption includes, but is not limited to, the following  
 17 actuarial tables, assumptions, methods, and factors:

- 18 a. Joint and survivor tables.
- 19 b. Reserve transfer tables.
- 20 c. Interest rate assumptions.
- 21 d. Salary increase assumptions.
- 22 e. Mortality assumptions.
- 23 f. Separation and retirement assumptions.
- 24 g. Asset smoothing methods.
- 25 h. Actuarial cost methods.
- 26 i. Contribution-based benefit cap factors.
- 27 j. Required contribution rates.
- 28 k. Amortization policies."

29 **SECTION 1.1.(d)** This section is effective when it becomes law, and subsection (c)  
 30 applies to actuarial tables, assumptions, and contribution-based benefit cap factors adopted or  
 31 changed on or after that date.

32 **SECTION 1.2.(a)** G.S. 135-6(n) reads as rewritten:

33 "(n) In 1943, and at least once in each five-year period thereafter, the actuary shall make  
 34 an actuarial investigation into the mortality, service and compensation experience of the members  
 35 and beneficiaries of the Retirement System, ~~and System and~~ shall make a valuation of the assets  
 36 and liabilities of the funds of the System, ~~and taking System. Taking~~ into account the result of  
 37 ~~such the~~ actuarial investigation and valuation, the Board of Trustees ~~shall~~ shall do all of the  
 38 following:

- 39 (1) ~~Adopt for the Retirement System such any necessary mortality, service and~~  
 40 ~~service, or other tables as shall be deemed necessary; and tables, and any~~  
 41 ~~necessary contribution-based benefit cap factors for the Retirement System.~~
- 42 (2) Certify the rates of contributions payable by the State of North Carolina on  
 43 account of new entrants at various ages.

44 In order to pay for the administration of this section, the Retirement Systems Division of the  
 45 Department of State Treasurer may increase receipts from the retirement assets of the Retirement  
 46 System or may pay the costs directly from the retirement assets."

47 **SECTION 1.2.(b)** G.S. 135-6(o) reads as rewritten:

48 "(o) On the basis of ~~such the~~ tables and interest assumption rate as adopted by the Board  
 49 ~~of Trustees shall adopt, Trustees,~~ the actuary shall make an annual valuation of the assets and  
 50 liabilities of the funds of the System created by this Chapter. The annual valuation shall include  
 51 a supplementary section that provides an analysis of assets on a market basis using the 30-year

1 treasury rate as of December 31 of the year of the valuation as the discount rate. In order to pay  
2 for the administration of this section, the Retirement Systems Division of the Department of State  
3 Treasurer may increase receipts from the retirement assets of the Retirement System or may pay  
4 the costs directly from the retirement assets."

5 **SECTION 1.2.(c)** G.S. 128-28(o) reads as rewritten:

6 "(o) In the year 1945, and at least once in each five-year period thereafter, the actuary shall  
7 make an actuarial investigation into the mortality, service and compensation experience of the  
8 members and beneficiaries of the Retirement System, ~~and System and~~ shall make a valuation of  
9 the assets and liabilities of the funds of the System, ~~and taking System.~~ Taking into account the  
10 result of such investigation and valuation, the Board of Trustees ~~shall~~ shall do all of the  
11 following:

- 12 (1) ~~Adopt for the Retirement System such any necessary mortality, service and~~  
13 ~~service, or other tables as shall be deemed necessary; and tables, and any~~  
14 ~~necessary contribution-based benefit cap factors for the Retirement System.~~
- 15 (2) Certify the rates of contributions payable by the participating units on account  
16 of new entrants at various ages.

17 In order to pay for the administration of this section, the Retirement Systems Division of the  
18 Department of State Treasurer may increase receipts from the retirement assets of the Retirement  
19 System or may pay the costs directly from the retirement assets."

20 **SECTION 1.2.(d)** G.S. 128-28(p) reads as rewritten:

21 "(p) On the basis of ~~such the~~ tables and interest assumption rate as adopted by the Board  
22 of Trustees ~~shall adopt, Trustees,~~ the actuary shall make an annual valuation of the assets and  
23 liabilities of the funds of the System created by this Chapter. The annual valuation shall include  
24 a supplementary section that provides an analysis of assets on a market basis using the 30-year  
25 treasury rate as of December 31 of the year of the valuation as the discount rate. In order to pay  
26 for the administration of this section, the Retirement Systems Division of the Department of State  
27 Treasurer may increase receipts from the retirement assets of the Retirement System or may pay  
28 the costs directly from the retirement assets."

29 **SECTION 1.2.(e)** This section is effective when it becomes law and applies to  
30 actuarial investigations and calculations made on or after that date.

31 **SECTION 2.1.(a)** G.S. 135-18.10A(b) is repealed.

32 **SECTION 2.1.(b)** G.S. 128-38.4A(b) is repealed.

33 **SECTION 2.1.(c)** G.S. 135-75.1A(b) is repealed.

34 **SECTION 2.1.(d)** G.S. 120-4.33A(b) is repealed.

35 **SECTION 3.1.(a)** G.S. 135-4(gg) reads as rewritten:

36 "(gg) If a member who is an elected government official and has not vested in this System  
37 on July 1, 2007, is convicted of an offense listed in G.S. 135-18.10 for acts committed after July  
38 1, 2007, then that member shall forfeit all benefits under this System, except for a return of  
39 member contributions plus interest. If a member who is an elected government official and has  
40 vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 135-18.10 for acts  
41 committed after July 1, 2007, then that member is not entitled to any creditable service that  
42 accrued after July 1, ~~2007-2007,~~ regardless of whether that creditable service was earned by  
43 virtue of membership in the System, accrued by conversion of sick leave at the point of the  
44 member's retirement, accrued by transfer of service from another retirement system, purchased  
45 by the member in accordance with this Chapter, or accrued by any other means. No member shall  
46 forfeit any benefit or creditable service earned from a position not as an elected government  
47 official. For purposes of this subsection, creditable service attributable to the conversion of sick  
48 leave accrues in this System on the date of retirement, service transferred to this System from  
49 another system accrues in this System on the effective date of the transfer, and purchased service  
50 accrues in this System on the date of the purchase."

51 **SECTION 3.1.(b)** G.S. 135-4(ii) reads as rewritten:

1       (ii) If a member who is in service and has not vested in this System on December 1, 2012,  
2 is convicted of an offense listed in G.S. 135-18.10A for acts committed after December 1, 2012,  
3 then that member shall forfeit all benefits under this System, except for a return of member  
4 contributions plus interest. If a member who is in service and has vested in this System on  
5 December 1, 2012, is convicted of an offense listed in G.S. 135-18.10A for acts committed after  
6 December 1, 2012, then that member is not entitled to any creditable service that accrued after  
7 December 1, ~~2012~~.2012, regardless of whether that creditable service was earned by virtue of  
8 membership in the System, accrued by conversion of sick leave at the point of the member's  
9 retirement, accrued by transfer of service from another retirement system, purchased by the  
10 member in accordance with this Chapter, or accrued by any other means. For purposes of this  
11 subsection, creditable service attributable to the conversion of sick leave accrues in this System  
12 on the date of retirement, service transferred to this System from another system accrues in this  
13 System on the effective date of the transfer, and purchased service accrues in this System on the  
14 date of the purchase."

15       **SECTION 3.1.(c)** G.S. 128-26(w) reads as rewritten:

16       (w) If a member who is an elected government official and has not vested in this System  
17 on July 1, 2007, is convicted of an offense listed in G.S. 128-38.4 for acts committed after July  
18 1, 2007, then that member shall forfeit all benefits under this System, except for a return of  
19 member contributions plus interest. If a member who is an elected government official and has  
20 vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 128-38.4 for acts  
21 committed after July 1, 2007, then that member is not entitled to any creditable service that  
22 accrued after July 1, ~~2007~~.2007, regardless of whether that creditable service was earned by  
23 virtue of membership in the System, accrued by conversion of sick leave at the point of the  
24 member's retirement, accrued by transfer of service from another retirement system, purchased  
25 by the member in accordance with this Article, or accrued by any other means. No member shall  
26 forfeit any benefit or creditable service earned from a position not as an elected government  
27 official. For purposes of this subsection, creditable service attributable to the conversion of sick  
28 leave accrues in this System on the date of retirement, service transferred to this System from  
29 another system accrues in this System on the effective date of the transfer, and purchased service  
30 accrues in this System on the date of the purchase."

31       **SECTION 3.1.(d)** G.S. 128-26(x) reads as rewritten:

32       (x) If a member who is in service and has not vested in this System on December 1, 2012,  
33 is convicted of an offense listed in G.S. 128-38.4A for acts committed after December 1, 2012,  
34 then that member shall forfeit all benefits under this System, except for a return of member  
35 contributions plus interest. If a member who is in service and has vested in this System on  
36 December 1, 2012, is convicted of an offense listed in G.S. 128-38.4A for acts committed after  
37 December 1, 2012, then that member is not entitled to any creditable service that accrued after  
38 December 1, ~~2012~~.2012, regardless of whether that creditable service was earned by virtue of  
39 membership in the System, accrued by conversion of sick leave at the point of the member's  
40 retirement, accrued by transfer of service from another retirement system, purchased by the  
41 member in accordance with this Article, or accrued by any other means. For purposes of this  
42 subsection, creditable service attributable to the conversion of sick leave accrues in this System  
43 on the date of retirement, service transferred to this System from another system accrues in this  
44 System on the effective date of the transfer, and purchased service accrues in this System on the  
45 date of the purchase."

46       **SECTION 3.1.(e)** G.S. 135-56(g) reads as rewritten:

47       (g) If a member who has not vested in this System on July 1, 2007, is convicted of an  
48 offense listed in G.S. 135-75.1 for acts committed after July 1, 2007, then that member shall  
49 forfeit all benefits under this System. If a member who has vested in this System on July 1, 2007,  
50 is convicted of an offense listed in G.S. 135-75.1 for acts committed after July 1, 2007, then that  
51 member is not entitled to any creditable service that accrued after July 1, ~~2007~~.2007, regardless

1 of whether that creditable service was earned by virtue of membership in the System, accrued by  
2 conversion of sick leave at the point of the member's retirement, accrued by transfer of service  
3 from another retirement system, purchased by the member in accordance with this Chapter, or  
4 accrued by any other means. No member shall forfeit any benefit or creditable service earned  
5 from a position not as a justice, judge, district attorney, or clerk of superior court. For purposes  
6 of this subsection, creditable service attributable to the conversion of sick leave accrues in this  
7 System on the date of retirement, service transferred to this System from another system accrues  
8 in this System on the effective date of the transfer, and purchased service accrues in this System  
9 on the date of the purchase."

10 **SECTION 3.1.(f)** G.S. 135-56(j) reads as rewritten:

11 "(j) If a member who is in service and has not vested in this System on December 1, 2012,  
12 is convicted of an offense listed in G.S. 135-75.1A for acts committed after December 1, 2012,  
13 then that member shall forfeit all benefits under this System, except for a return of member  
14 contributions plus interest. If a member who is in service and has vested in this System on  
15 December 1, 2012, is convicted of an offense listed in G.S. 135-75.1A for acts committed after  
16 December 1, 2012, then that member is not entitled to any creditable service that accrued after  
17 December 1, ~~2012~~.2012, regardless of whether that creditable service was earned by virtue of  
18 membership in the System, accrued by conversion of sick leave at the point of the member's  
19 retirement, accrued by transfer of service from another retirement system, purchased by the  
20 member in accordance with this Chapter, or accrued by any other means. For purposes of this  
21 subsection, creditable service attributable to the conversion of sick leave accrues in this System  
22 on the date of retirement, service transferred to this System from another system accrues in this  
23 System on the effective date of the transfer, and purchased service accrues in this System on the  
24 date of the purchase."

25 **SECTION 3.1.(g)** G.S. 120-4.12(f) reads as rewritten:

26 "(f) If a member who has not vested in this System on July 1, 2007, is convicted of an  
27 offense listed in G.S. 120-4.33 for acts committed after July 1, 2007, then that member shall  
28 forfeit all benefits under this System. If a member who has vested in this System on July 1, 2007,  
29 is convicted of an offense listed in G.S. 120-4.33 for acts committed after July 1, 2007, then that  
30 member is not entitled to any creditable service that accrued after July 1, ~~2007~~.2007, regardless  
31 of whether that creditable service was earned by virtue of membership in the System, accrued by  
32 conversion of sick leave at the point of the member's retirement, accrued by transfer of service  
33 from another retirement system, purchased by the member in accordance with this Article, or  
34 accrued by any other means. No member shall forfeit any benefit or creditable service earned  
35 from a position not as a member of the General Assembly. For purposes of this subsection,  
36 creditable service attributable to the conversion of sick leave accrues in this System on the date  
37 of retirement, service transferred to this System from another system accrues in this System on  
38 the effective date of the transfer, and purchased service accrues in this System on the date of the  
39 purchase."

40 **SECTION 3.1.(h)** G.S. 120-4.12(g) reads as rewritten:

41 "(g) If a member who is a present member of the General Assembly and who has not  
42 vested in this System on December 1, 2012, is convicted of an offense listed in G.S. 120-4.33A  
43 for acts committed after December 1, 2012, then that member shall forfeit all benefits under this  
44 System, except for a return of member contributions plus interest. If a member who is a present  
45 member of the General Assembly and has vested in this System on December 1, 2012, is  
46 convicted of an offense listed in G.S. 120-4.33A for acts committed after December 1, 2012, then  
47 that member is not entitled to any creditable service that accrued after December 1, ~~2012~~.2012,  
48 regardless of whether that creditable service was earned by virtue of membership in the System,  
49 accrued by conversion of sick leave at the point of the member's retirement, accrued by transfer  
50 of service from another retirement system, purchased by the member in accordance with this  
51 Article, or accrued by any other means. For purposes of this subsection, creditable service

1 attributable to the conversion of sick leave accrues in this System on the date of retirement,  
2 service transferred to this System from another system accrues in this System on the effective  
3 date of the transfer, and purchased service accrues in this System on the date of the purchase."

4 **SECTION 3.2.(a)** G.S. 135-18.10B reads as rewritten:

5 **"§ 135-18.10B. Prohibition on purchase of forfeited service.**

6 Any member whose retirement benefits have been forfeited under G.S. 135-18.10 or  
7 G.S. 135-18.10A is prohibited from subsequently purchasing or repurchasing either those  
8 forfeited benefits or any creditable membership service associated with those forfeited  
9 ~~benefits~~.benefits and that service may not be used for the purposes of eligibility for benefits in  
10 any retirement system that provides reciprocal benefits."

11 **SECTION 3.2.(b)** G.S. 128-38.4B reads as rewritten:

12 **"§ 128-38.4B. Prohibition on purchase of forfeited service.**

13 Any member whose retirement benefits have been forfeited under G.S. 128-38.4 or  
14 G.S. 128-38.4A is prohibited from subsequently purchasing or repurchasing either those forfeited  
15 benefits or any creditable membership service associated with those forfeited ~~benefits~~.benefits  
16 and that service may not be used for the purposes of eligibility for benefits in any retirement  
17 system that provides reciprocal benefits."

18 **SECTION 3.2.(c)** G.S. 135-75.1B reads as rewritten:

19 **"§ 135-75.1B. Prohibition on purchase of forfeited service.**

20 Any member whose retirement benefits have been forfeited under G.S. 135-75.1 or  
21 G.S. 135-75.1A is prohibited from subsequently purchasing or repurchasing either those forfeited  
22 benefits or any creditable membership service associated with those forfeited ~~benefits~~.benefits  
23 and that service may not be used for the purposes of eligibility for benefits in any retirement  
24 system that provides reciprocal benefits."

25 **SECTION 3.2.(d)** G.S. 120-4.33B reads as rewritten:

26 **"§ 120-4.33B. Prohibition on purchase of forfeited service.**

27 Any member whose retirement benefits have been forfeited under G.S. 120-4.3 or  
28 G.S. 120-4.3A is prohibited from subsequently purchasing or repurchasing either those forfeited  
29 benefits or any creditable membership service associated with those forfeited ~~benefits~~.benefits  
30 and that service may not be used for the purposes of eligibility for benefits in any retirement  
31 system that provides reciprocal benefits."

32 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes  
33 law.