

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 177
PROPOSED SENATE COMMITTEE SUBSTITUTE H177-PCS10656-SHp-47

Short Title: Extend Spiking Moratorium/LGERS Surety. (Public)

Sponsors:

Referred to:

March 1, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO EXTEND THE PENSION-SPIKING LITIGATION PAUSE AND THE REPORT
3 DEADLINE AND TO CLARIFY REQUIREMENTS FOR PARTICIPATION IN THE
4 LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM FOR ELIGIBLE
5 EMPLOYERS THAT DO NOT HAVE TAXING AUTHORITY.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.(a)** Section 3.2 of S.L. 2021-72 reads as rewritten:

8 "**SECTION 3.2.** Notwithstanding any provision of law to the contrary, from the period
9 beginning on the effective date of this act and ending on June 30, ~~2022~~,2023, local boards of
10 education are prohibited from filing any legal actions against the State, including contested case
11 actions filed under Article 3 of Chapter 150B of the General Statutes, regarding the
12 anti-pension-spiking contribution-based benefit cap established in G.S. 135-5(a3). Any
13 applicable statute of limitations is hereby tolled from the period beginning on the effective date
14 of this act and ending on June 30, ~~2022~~,2023. During the ~~one-year~~ litigation pause, the
15 Retirement System shall not request an interception of State appropriations pursuant to
16 G.S. 135-8(f)(3) for unpaid contributions attributable to an assessment for a CBBC liability that
17 occurs more than 14 months after the effective retirement date of the member. Prior to September
18 1, 2023, the Retirement System shall not request an interception of State appropriations pursuant
19 to G.S. 135-8(f)(3) for unpaid contributions attributable to retirements that occurred between July
20 1, 2021, and June 30, 2022."

21 **SECTION 1.(b)** Section 4 of S.L. 2021-72 reads as rewritten:

22 "**SECTION 4.(a)** The N.C. Department of State Treasurer and the N.C. School Boards
23 Association shall convene a working group to review the anti-pension-spiking contribution-based
24 benefit cap established. The working group may produce findings and recommendations on the
25 following issues:

- 26 (1) Reducing the incidence of future litigation regarding the anti-pension-spiking
27 contribution-based benefit cap;
28 (2) Reducing the incidence of unfunded pension liabilities associated with
29 compensation decisions;
30 (3) Assessing the feasibility of using mediation, arbitration, or non-jury trials to
31 settle disputes with local boards of education and other entities regarding the
32 anti-pension-spiking contribution-based benefit cap; and
33 (4) Any other issues the working group wishes to address.

34 "**SECTION 4.(b)** No later than ~~April 1, 2022~~,December 15, 2022, the working group may
35 report its findings and recommended changes to the anti-pension-spiking contribution-based
36 benefit cap to the Joint Legislative Oversight Committee on General Government."



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1 **SECTION 2.(a)** G.S. 128-23 is amended by adding a new subsection to read:
2 "(i) Notwithstanding any provision of this section or G.S. 128-21(11), or any other
3 provision of law to the contrary, any eligible employer that is not a taxing authority and is not a
4 participating employer in the Retirement System on September 1, 2023, is not eligible to
5 commence participation in the Retirement System without obtaining a surety as defined in rules
6 adopted by the Board of Trustees. The rules adopted by the Board of Trustees shall address how
7 an eligible employer that is not a taxing authority will cover a withdrawal liability that could be
8 incurred by the employer if the employer ceases participation in the Retirement System."
9 **SECTION 2.(b)** The Board of Trustees shall adopt rules necessary to enforce this
10 section by August 1, 2023.
11 **SECTION 3.** This act becomes effective June 30, 2022.