

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H.B. 768
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10378-NJp-58

Short Title: LLEA Return to Work from Retirement.

(Public)

Sponsors: Representative Carson Smith.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT ALLOWING LAW ENFORCEMENT OFFICERS TO RECEIVE RETIREMENT
3 BENEFITS AND SUBSEQUENTLY RETURN TO SERVICE.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** G.S. 128-24 is amended by adding a new subdivision to read:

6 "(5b) Notwithstanding sub-subdivisions c. and d. of subdivision (5) to the contrary,
7 a beneficiary who retired on an early or service retirement as a law
8 enforcement officer, or as a justice officer as defined in G.S. 17E-2, shall
9 continue to be paid their retirement allowance without restriction if the
10 beneficiary is subsequently employed as a law enforcement officer or justice
11 officer as long as any employment follows a break in service of not less than
12 one month and the employer pays into this Retirement System an amount
13 equal to both the members' and employers' contributions required by law for
14 the duration of the employment. For the purposes of this subdivision,
15 "employed" and "employment" shall mean restoration to service as an
16 employee, regularly employed, or employment or being engaged to perform
17 services on a part-time, full-time, temporary, interim, or fee for service basis.
18 Service by a beneficiary under this subdivision shall not count as membership
19 service or increase the beneficiary's retirement benefits under this Retirement
20 System."

21 **SECTION 1.(b)** G.S. 135-3 is amended by adding a new subdivision to read:

22 "(8b) Notwithstanding sub-subdivisions c. and d. of subdivision (8) to the contrary,
23 a beneficiary who retired on an early or service retirement as a law
24 enforcement officer shall continue to be paid their retirement allowance
25 without restriction if the beneficiary is subsequently employed as a law
26 enforcement officer, as long as any employment follows a break in service of
27 not less than six months and the employer pays into this Retirement System
28 an amount equal to both the members' and employers' contributions required
29 by law for the duration of the employment. For the purposes of this
30 subdivision, "employed" and "employment" shall mean restoration to service
31 as an employee, regularly employed, or employment or being engaged to
32 perform services on a part-time, full-time, temporary, interim, or fee for
33 service basis. Service by a beneficiary under this subdivision shall not count
34 as membership service or increase the beneficiary's retirement benefits under
35 this Retirement System."

36 **SECTION 1.(c)** G.S. 143-166.41(c) reads as rewritten:



1 "(c) Payment to a retired officer under the provisions of this section shall cease at the first
2 of:

3 ...

4 (3) The first day of reemployment by any State department, agency, or institution,
5 except that this subdivision does not apply to an officer returning to State
6 employment in a public safety position or in a position exempt from the North
7 Carolina Human Resources Act in an agency other than the agency from
8 which that officer retired. For the purposes of this subdivision "public safety
9 position" means a position as a law enforcement officer, as defined in
10 G.S. 135-1 or G.S. 143-166.30, but does not include a position as a probation
11 or parole officer, as defined in G.S. 135-1."

12 **SECTION 1.(d)** G.S. 143-166.42(c1) reads as rewritten:

13 "(c1) Notwithstanding the provisions of subdivision (3) of subsection (c) of this section,
14 payments to a retired officer shall not cease when a local government employer employs a retired
15 officer for any of the following:

16 (1) ~~In a public safety position in a capacity not requiring participation in the Local~~
17 ~~Governmental Employees' Retirement System position. For the purposes of~~
18 ~~this subdivision "public safety position" means a position as a law~~
19 ~~enforcement officer, as defined in G.S. 128-21 or G.S. 143-166.50, or a~~
20 ~~position as a justice officer, as defined in G.S. 17E-2.~~

21"

22 **SECTION 1.(e)** G.S. 143-166.85 reads as rewritten:

23 **"§ 143-166.85. Benefits.**

24 ...

25 (d) ~~Monthly pensions payable under this Article will cease upon the full time~~
26 ~~reemployment of a pensioner with an employer participating in the Local Governmental~~
27 ~~Employees' Retirement System for as long as the pensioner is so reemployed.~~

28"

29 **SECTION 2.(a)** Effective Date and Applicability. – This act is effective when it
30 becomes law and does not confer an entitlement to retroactive payment of Special Separation
31 Allowance payments, Sheriffs' Supplemental Pension Fund payments, or retirement allowance
32 payments that were suspended on account of reemployment prior to the effective date of this act.

33 **SECTION 2.(b)** Sunset. – G.S. 128-24, 135-3, 143-166.41(c), 143-166.42(c1), and
34 143-166.85, as enacted by Section 1 of this act, shall expire four years from the date this act
35 becomes law.