

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 559
House Committee Substitute Favorable 6/11/24
Proposed Conference Committee Substitute S559-PCCS45486-SH-10

Short Title: Charter Schools/Pension/ESOP.

(Public)

Sponsors:

Referred to:

April 5, 2023

A BILL TO BE ENTITLED

1 AN ACT TO ENABLE THE BOARD OF DIRECTORS OF CERTAIN CHARTER SCHOOLS
2 TO ELECT TO PARTICIPATE IN THE NORTH CAROLINA STATE HEALTH PLAN
3 FOR TEACHERS AND STATE EMPLOYEES; TO CREATE ADDITIONAL
4 FLEXIBILITY FOR CHARTER SCHOOLS TO BECOME A PARTICIPATING
5 EMPLOYING UNIT IN THE STATE HEALTH PLAN; TO MAKE CONFORMING AND
6 EFFECTIVE DATE CHANGES TO PENDING LEGISLATION FOR THE NORTH
7 CAROLINA FIREFIGHTERS' AND RESCUE SQUAD WORKERS' PENSION FUND; TO
8 ADDRESS PARENTAL LEAVE FOR CHARTER SCHOOL EMPLOYEES; AND TO
9 CLARIFY THE DEFINITION OF A HISTORICALLY UNDERUTILIZED BUSINESS AS
10 IT RELATES TO AN EMPLOYEE STOCK OWNERSHIP PLAN.
11

12 The General Assembly of North Carolina enacts:

13 **SECTION 1.(a)** Notwithstanding the time limitation contained in G.S. 135-48.54,
14 the Board of Directors of NC Leadership Academy, a charter school located in Forsyth County,
15 may elect to become a participating employing unit in the State Health Plan for Teachers and
16 State Employees in accordance with Article 3B of Chapter 135 of the General Statutes. The
17 election authorized by this act shall be made no later than 30 days after the effective date of this
18 act and shall be made in accordance with all other requirements of G.S. 135-48.54.

19 **SECTION 1.(b)** Notwithstanding the time limitation contained in G.S. 135-48.54,
20 the Board of Directors of Alpha Academy, a charter school located in Cumberland County, may
21 elect to become a participating employing unit in the State Health Plan for Teachers and State
22 Employees in accordance with Article 3B of Chapter 135 of the General Statutes. The election
23 authorized by this act shall be made no later than 30 days after the effective date of this act and
24 shall be made in accordance with all other requirements of G.S. 135-48.54.

25 **SECTION 1.(c)** Notwithstanding the time limitation contained in G.S. 135-48.54,
26 the Board of Directors of Durham Charter, a charter school located in Durham County, may elect
27 to become a participating employing unit in the State Health Plan for Teachers and State
28 Employees in accordance with Article 3B of Chapter 135 of the General Statutes. The election
29 authorized by this act shall be made no later than 30 days after the effective date of this act and
30 shall be made in accordance with all other requirements of G.S. 135-48.54.

31 **SECTION 1.(d)** Notwithstanding the time limitation contained in G.S. 135-48.54,
32 the Board of Directors of United Community School, a charter school located in Mecklenburg
33 County, may elect to become a participating employing unit in the State Health Plan for Teachers
34 and State Employees in accordance with Article 3B of Chapter 135 of the General Statutes. The



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1 election authorized by this act shall be made no later than 30 days after the effective date of this
2 act and shall be made in accordance with all other requirements of G.S. 135-48.54.

3 **SECTION 2.(a)** G.S. 135-48.54 reads as rewritten:

4 **"§ 135-48.54. Optional participation for charter schools operated by private nonprofit**
5 **corporations or municipalities.**

6 (a) Repealed by Session Laws 2018-84, s. 11(a), effective June 25, 2018.

7 (b) ~~No later than two years after both parties have signed the written charter under~~
8 ~~G.S. 115C-218.15, the~~ The board of directors of a charter school operated by a private nonprofit
9 corporation or a charter school operated by a municipality shall may elect whether to become a
10 participating employer in the Plan in accordance with this Article-Plan. The following shall apply
11 to that election:

12 (1) If the election is made no later than two years from the date that both parties
13 have signed the written charter under G.S. 115C-218.15, then the charter
14 school shall become a participating employing unit in the Plan. This election
15 shall be in writing and filed with The board of directors shall provide written
16 notification of this election and the resulting status of the charter school as a
17 participating unit in the Plan to the Plan, the Charter Schools Review Board,
18 and the State Board of Education. This The written notification shall include
19 the date that the charter school employees shall be enrolled in the Plan. For
20 any charter school employee hired after the initial enrollment date, this
21 election is effective for each charter school employee as of the date of that
22 employee's entry into eligible service.

23 (2) If the election is made at any time after two years from the date that both
24 parties have signed the written charter under G.S. 115C-218.15, then the board
25 of directors of that charter school shall file an application with the Board of
26 Trustees for participation in the Plan on a form approved by the Board of
27 Trustees. The application shall be subject to approval by the Board of Trustees
28 and notification of approval or denial of the application shall be provided by
29 the Board of Trustees to the board of directors within 180 days of receipt of
30 the complete application. Upon approval of the application by the Board of
31 Trustees, the charter school shall become a participating employing unit in the
32 Plan. The board of directors shall provide written notification of the election,
33 the submission of the application required under this subdivision, and the
34 approval of that application by the Board of Trustees to the Charter Schools
35 Review Board and the State Board of Education. This written notification
36 shall include the date that the charter school employees shall be enrolled in
37 the Plan. For any charter school employee hired after the initial enrollment
38 date, this election is effective as of the date of that employee's entry into
39 eligible service.

40 (b1) A charter school making an election to become a participating employing unit in the
41 Plan under this section shall provide notice of the intent to make that election six months prior to
42 making the election; ~~provided that the Plan election. The Board of Trustees shall not prohibit a~~
43 ~~charter school from becoming a participating employing unit in the Plan solely because that~~
44 ~~charter school did not provide this notice.~~

45 (c) ~~A board's board of director's election to become a participating employer employing~~
46 unit in the Plan under this section is irrevocable and shall require all eligible employees of the
47 charter school to participate.

48 (d) If a charter school's board of directors does not elect to become a participating
49 employer in the Plan under this section, then that school's employees and the dependents of those
50 employees are not eligible for any benefits under the Plan on account of employment with a
51 charter school.

1 (e) The board of directors of each charter school shall notify each of its employees as to
2 whether the board elected to become a participating employer in the Plan under this section. This
3 notification shall be in writing and shall be provided within 30 days of the board's election or at
4 the time an initial offer for employment is made, whichever occurs last. If the board did not elect
5 to become a participating employer in the Plan, the notice shall include a statement that the
6 employee shall have no legal recourse against the board or the State for any possible benefit
7 under the Plan. The employee shall provide written acknowledgment of the employee's receipt
8 of the notification under this subsection."

9 **SECTION 2.(b)** G.S. 135-1(11) reads as rewritten:

10 "(11) Employing Unit. – A North Carolina School System; Community College;
11 State Department, Agency, or Institution; the University of North Carolina
12 Health Care System; Administrative Office of the Courts; or Association or
13 Examining Board whose employees are eligible for membership in a
14 State-Supported Retirement System. An employing unit also shall mean (i) a
15 charter school in accordance with Article 14A of Chapter 115C of the General
16 Statutes ~~whose board of directors elects to become~~ that becomes
17 a participating employer in the Plan under G.S. 135-48.54 or (ii) a local
18 government unit that participates in the Plan under G.S. 135-48.47 or under
19 any other law. Bona fide fire departments, rescue or emergency medical
20 service squads, and National Guard units are deemed to be employing units
21 for the purpose of providing benefits under this Article."

22 **SECTION 2.(c)** This section is effective 30 days after the act becomes law.

23 **SECTION 3.(a)** If Senate Bill 319, 2024 Regular Session, becomes law, then,
24 effective January 1, 2025, G.S. 58-86-45 reads as rewritten:

25 "**§ 58-86-45. Additional retroactive membership.**

26 ...

27 (b) An eligible firefighter or rescue squad worker who is not yet 35 years old may apply
28 to the ~~board of trustees~~ Board for membership in the fund at any time. Upon becoming a member,
29 the worker may make a lump sum payment of ~~ten dollars (\$10.00)~~ fifteen dollars (\$15.00) per
30 month retroactively to the time the worker first became eligible to become a member, plus interest
31 at an annual rate to be set by the board upon advice from actuary for each year of retroactive
32 payments. Upon making this lump sum payment, the worker shall be given credit for all prior
33 service in the same manner as if the worker had applied for membership upon first becoming
34 eligible.

35 (c) A member of the Pension Fund who is not yet 35 years old may receive credit for the
36 prior service upon making a lump sum payment of ~~ten dollars (\$10.00)~~ fifteen dollars (\$15.00)
37 for each month since the worker first became eligible, plus interest at an annual rate to be set by
38 the ~~board~~ Board for each year of retroactive payments. Upon making this lump sum payment, the
39 date of membership shall be the same as if the worker had applied for membership upon first
40 becoming eligible. This provision for the payment of a lump sum for service "not otherwise
41 creditable" shall apply, inter alia, to all purchases of service credits for months as to which timely
42 payments were not previously made pursuant to G.S. 58-86-35 or G.S. 58-86-40, whichever is
43 applicable, for any firefighter or rescue squad worker who is not yet 35 years of age or older and
44 who is a current or former member of a fire department or rescue squad chartered by the State of
45 North Carolina."

46 **SECTION 3.(b)** If Senate Bill 319, 2024 Regular Session, becomes law, then
47 effective January 1, 2025, G.S. 58-86-55(a), as amended by Section 11.3 of that act reads as
48 rewritten:

49 "(a) Any member who has served 20 years as an "eligible firefighter" or "eligible rescue
50 squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30,
51 and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund.

1 The monthly pension shall be in the amount of one hundred seventy-five dollars (\$175.00) per
2 month. Any retired firefighter receiving a pension shall, effective ~~July 1, 2024~~, January 1, 2025,
3 receive a pension of one hundred seventy-five dollars (\$175.00) per month."

4 **SECTION 3.(c)** If Senate Bill 319, 2024 Regular Session, becomes law, then the
5 following applies to Sections 11.1 and 11.2 of that act; to Section 11.3 of that act, as amended by
6 Section 3(b) of this act; and to Section 3(a) of this act:

7 (1) These sections apply to membership contributions due to the North Carolina
8 Firefighters' and Rescue Squad Workers' Pension Fund (Pension Fund) on or
9 after January 1, 2025. Any membership contribution payments made to the
10 Pension Fund on or before March 31, 2025, for service in the 2024 calendar
11 year shall be in the amount of ten dollars (\$10.00) per month of service.

12 (2) These sections apply to pension benefit amounts payable from the Pension
13 Fund due to a member or beneficiary on or after January 1, 2025. If a member
14 or beneficiary becomes eligible to receive a pension benefit from the Pension
15 Fund on or before December 31, 2024, but the pension benefit amount is paid
16 from the Pension Fund on or after January 1, 2025, then the pension amount
17 benefit due to the member or beneficiary shall be the amount applicable to the
18 pension benefit amount that was effective for each respective month to which
19 the benefit applies.

20 **SECTION 3.(d)** If Senate Bill 319, 2024 Regular Session, becomes law, then Section
21 13 of that act reads as rewritten:

22 "**SECTION 13.** Sections 1 and 2 of this act become effective October 1, 2024, and apply to
23 contracts issued, renewed, or amended on or after that date. Section 4 of this act becomes
24 effective October 1, 2024, and applies to notices of foreclosure sale filed with the clerk of
25 superior court on or after that date. Section 5 of this act becomes effective October 1, 2024, and
26 applies to contracts entered into on or after that date. Section 7 of this act is effective when it
27 becomes law and applies to claims pending on or arising after that date. Sections 10.1 through
28 10.3 of this act become effective July 1, 2025, and apply to the distribution of net proceeds of the
29 gross premiums tax collected on or after that date. Section 10.4 of this act is effective July 1,
30 2025. Sections 11.1 through 11.3 of this act are effective ~~July 1, 2024~~, January 1, 2025. Sections
31 12.1 through 12.4 of this act are effective when it becomes law and apply to applications
32 submitted on or after that date. Except as otherwise provided, this act is effective when it becomes
33 law."

34 **SECTION 4.(a)** G.S. 115C-218.90(a)(6) reads as rewritten:

35 "(6) A board of directors may (i) provide paid parental leave consistent with the
36 requirements of ~~G.S. 126-8.6~~, G.S. 126-8.6 or (ii) require, as a condition of a
37 contract with an education management organization or charter management
38 organization to employ and provide teachers, that paid parental leave be
39 provided to those teachers consistent with the requirements of G.S. 126-8.6.
40 If the board provides paid parental leave, leave to its employees or requires
41 paid parental leave be provided by contract, it shall be eligible to receive funds
42 as provided in G.S. 115C-336.1(b). If the board does not provide paid parental
43 leave, it shall provide written notice to individuals upon offering employment.
44 The notice shall state that employment with the charter school will not count
45 toward any minimum period of service established pursuant to
46 G.S. 126-8.6(c1)."

47 **SECTION 4.(b)** This section is effective when it become law and applies beginning
48 with the 2024-2025 school year.

49 **SECTION 5.(a)** G.S. 143-128.4(a) reads as rewritten:

50 "(a) As used in this Chapter, the term "historically underutilized business" means either of
51 the following:

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(2) An Employee Stock Ownership Plan company in which at least fifty-one percent (51%) of the ~~stock is owned by one or more persons who plan participants~~ are members of at least one of the groups set forth in subsection (b) of this section. An ESOP company applying for certification as a historically underutilized business shall provide an attestation that it meets the requirements of this subdivision together with such documentation supporting the attestation as may be required by the Secretary."

SECTION 5.(b) This section becomes effective July 1, 2024.

SECTION 6. Except as otherwise provided, this act is effective when it becomes

law.